

ALERTS

Tax and Estate Planning Considerations in Light of COVID-19

March 31, 2020

Tax Filing and Payment Deadlines Extended

- In a notice issued on March 20, 2020, the IRS announced that due to the COVID-19 pandemic, all taxpayers (including individuals, trusts and estates) with an income tax payment or filing due on April 15, 2020 will be granted an extension until July 15, 2020 to make such payment or filing. While the IRS had originally placed a limit on the amount of tax that could be postponed, the March 20, 2020 notice removed this limitation.
- In a notice issued on March 27, 2020, the IRS also announced that all taxpayers with federal gift or generation-skipping transfer tax payments or filings due on April 15, 2020 will be granted an extension until July 15, 2020 to make such payments or filings.
- New York has extended the deadline for state income tax payments and filings due on April 15, 2020 to July 15, 2020, according to Governor Cuomo's Executive Order issued on March 28, 2020.
- Connecticut has extended the deadline for state income tax payments and filings due on April 15, 2020 to July 15, 2020, according to the Department of Revenue Services.
- The New Jersey legislature passed Assembly Bill No. 3841 on March 16, 2020, which would extend the deadline for state income tax payments and filings due on April 15, 2020 to June 30, 2020, but at this time, the bill has not yet been signed into law.

Notarization via Videoconferencing

- By an Executive Order issued on March 19, 2020, Governor Cuomo authorized the notarization of documents by live videoconference through April 18, 2020, provided that specific technical criteria are met. For example, the signer (i) must state that he or she is physically situated in New York, (ii) present valid photo ID during the videoconference (if not personally known to the Notary) and (iii) transmit by fax or electronic means a legible copy of the signed document to the Notary on the same date that it was signed. Please consult your Schulte Roth & Zabel LLP attorney before utilizing remote notarization to ensure that all requirements will be met. See *SRZ Alert* Remote Notarization in New York State: Temporary Authorization in Response to COVID-19.

Funding Revocable Trusts to Avoid Probate

- New York Surrogate's Courts are closed for the foreseeable future, which will cause considerable delays in probate. You should consider funding your revocable trust now to ensure your estate is not negatively impacted by the potential delay in probate. Probate assets are frozen and may not be liquidated or used until the will has been probated by the court (or preliminary letters testamentary are granted to the nominated executors).
- Specifically, if your spouse or children (or anyone else) relies on you for support and your estate plan contemplates continuing to provide for them, you should consider funding your revocable trust with, at a minimum, sufficient liquid assets to allow your beneficiaries access to these funds immediately after your death. Further, if you direct the sale of any assets upon your death (or own any assets which should be sold after your death rather than distributed to your beneficiaries), you should fund your revocable trust with these assets so that any potential post-death sales are not impeded due to a delayed probate process.
- If you are unable to fund your revocable trusts, you should find out whether the custodian of your individual accounts permits you to designate your revocable trust as the recipient of that account on death by beneficiary designation.

Remote Availability

- The SRZ Individual Client Services team is working remotely at this time to ensure the health and safety of our staff, clients and community. Our attorneys are committed to providing you with uninterrupted service and remain available by email and telephone. We are currently using Zoom, LoopUp and similar video and telephone conferencing services to conduct meetings.

Please contact your Schulte Roth & Zabel attorney at your earliest convenience if you wish to discuss the above issues as they may apply to your specific financial and personal circumstances, or if you wish to discuss (i) making gifts which take advantage of the increased gift tax exemptions which are scheduled to expire at the end of 2025 (unless Congress acts sooner) or (ii) making loans or selling assets to trusts in order to take advantage of the current low interest rates.

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