



ESTATE PLANNING & DEBT WORKOUTS

REAL ESTATE CONNECTION 8.20.2020

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OVERVIEW

ESTATE PLANNING
AN UNPRECEDENTED OPPORTUNITY

BUSINESS VALUATION
SUPERCHARGE YOUR ESTATE PLANNING

DEBT WORKOUTS
THE GOOD, THE BAD, AND THE UGLY

ESTATE PLANNING



ESTATE PLANNING

- Unique point in time in the history of estate tax
- Concern in profession if there is a change in the White House and Senate
- Consider taking advantage of high exemption while we have it
- Gifting today removes future appreciation
- Historically low interest rates present additional opportunities
- Variety of techniques to maximize the value of gifts and leverage the use of exemption
- Potential to wait until the election outcome is known
- It's important to keep in mind step-up in basis for income tax
- With all the recent stimulus, we know there will come a time to pay

BUSINESS VALUATION



BUSINESS VALUATION

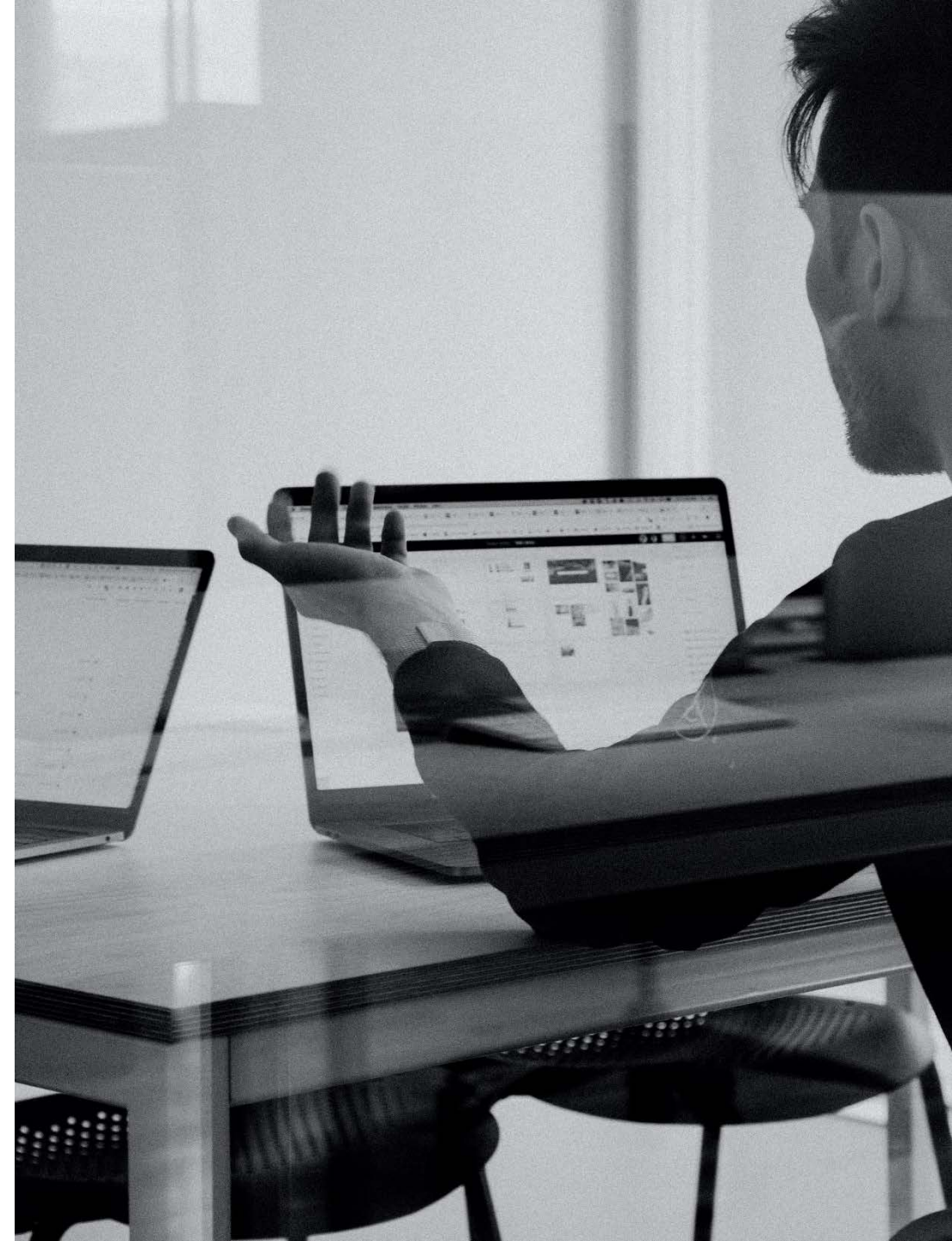
High lifetime exclusion limits
+ Possibly lower rates
= Opportunity for transfers

- Many are planning 2020 gifts with preliminary values
- Update to valuation/transfer date with report

BUSINESS VALUATION

NEXT STEPS

- Assemble advisor team
- Holding companies
 - Schedule real estate appraisal
 - Schedule business valuation to follow
 - "As-of date"
- Operating entities
 - Schedule business valuation
 - Schedule appraisals of significant or unique assets held
- Determine amount (\$ or %) to be transferred
 - Analyze cash flow
 - Verify that long-term financial security is maintained
 - Discuss formula allocation clauses
- Evaluate/determine changes
- Obtain appraisals
- Execute agreements & legal transfers
- File gift tax return



DEBT WORKOUTS



CANCELLATION OF DEBT (COD) (SECTION 108)

- Included in gross income unless excluded under Section 108
- Can result from:
 - Retirement/extinguishment of existing debt
 - Debt to equity conversion
 - Issuance of new debt for old debt
- COD is not:
 - Wages, fees, or other remuneration
 - Capital transaction
 - Gift
 - Settlement
 - Lost deductions



COD EXCLUSION PROVISIONS (SECTION 108)

Exclusion Provision	C Corp	S Corp	Partnership/LLC	DRE	Individual
Title 11 (Bankruptcy)	E	E	O	O	O
Insolvency	E	E	O	O	O
Qualified Farm Debt	E	E	O	O	O
Qualified Real Property Debt	N/A	E	O	O	O
Qualified Principal Residence Debt	N/A	N/A	O	O	O

Codes:

- DRE = Disregarded entity (i.e., single-member LLC, grantor trust)
- E = Tested/determined at entity level
- O = Tested/determined at owner/ultimate taxpayer level



COD VS SALE/EXCHANGE- WHY DOES IT MATTER?

- Recourse debt
 - Amount realized from sale equals FMV of property
 - Excess of debt over FMV is COD income
- Nonrecourse debt
 - Amount realized from sale equals total amount of debt (*Tufts* case)
 - FMV of property is ignored
- Types of transactions
 - Deed in lieu (DIL)
 - Foreclosure
 - Debt modifications

EXCLUSION OPTIONS/CONSEQUENCES- WHAT HAPPENS IF YOU EXCLUDE COD?

- Done via Form 982
 - Filed with return for year of COD exclusion
- Attribute reduction order:
 - Net operating loss (NOL)
 - General business credit
 - Minimum tax credit
 - Capital loss carryovers
 - Basis reduction
 - Passive activity loss and credit carryovers
 - Foreign tax credit carryovers
- Election to first reduce basis in depreciable property before other tax attributes





FUTURE UPDATES

Pre-School for All Tax

- New Multnomah County proposed income tax on November ballot

Rent modifications/deferrals

1031 Exchanges

Business interest expense

Carried interest

THANK YOU



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