4300 B Street, Suite 400
Anchorage, Alaska 99503
TEL 907.522.2272
EMAIL generations@foleypearson.com
WEB www.foleypearson.com

Announcements

Reminder to Corporate and LLC Maintenance Clients: Don't Pay Your Biennial Fee!

If you are the owner of an LLC, corporation, or other business entity, the State of Alaska Division of Corporations will be sending you a reminder to pay the $100 biennial fee to maintain your organization's good standing. If your LLC or corporation is on the Foley & Pearson ***Corporate Maintenance*** program, do not pay this fee! The fee will be paid by Foley & Pearson as part of ***Corporate Maintenance*** when we submit the other required documentation to keep your organization in good standing.

If you have any questions about this, please call the office at (907) 522-2272 and ask for Alex Quast, our ***Corporate Maintenance*** paralegal.

Update: Change in Software

Our office is in the process of shifting to a new software platform. While we will do our best to make sure that bills continue to be issued as seamlessly as possible, there are bound to be hiccups with the transition. Once our new system is fully up and running, we hope to be able to offer online bill-pay by credit card, as well as the option to receive electronic invoices instead of paper statements. We will be sure to keep you informed of our progress, and we thank you in advance for your patience as we move to the new system.

Update: Changes in Terms of Service

We will be updating the services offered under each level of our ***Generations*** program. The updated Terms of Service, which will be effective beginning on January 1, 2022, will be mailed out at the end of this year. However, all current ***Generations*** clients will be "grandfathered" in at their current payment levels for the calendar year of 2022.

September 2021

Generations

FOLEY & PEARSON NEWSLETTER

Save the Date:
December 28th
~
Successor Trustee Webinar

*Foley & Pearson will once again be offering the Successor Trustee Workshop as a live and interactive webinar for **Generations** clients and their successor trustees. The presentation will be held on December 28, 2021. We encourage you to invite successor trustees or family members that you would like to become more informed regarding your estate planning.*

To RSVP, please call our office at (907) 522-2272 or email us at Dec28webinar2021@FoleyPearson.com.

Be sure to let us know who will be attending, their email addresses, and any particular questions you would like answered during the webinar.

We hope to see you there!

Gifting as an Estate Planning Tool

By Chelsea R. Riekkola

A change in the makeup of Congress is a good time to review your estate planning strategy. One consideration is whether gifting, sometimes referred to as "lifetime gifting," would be an appropriate addition to that strategy.

All United States citizens are permitted to make a gift of up to $15,000 in value per person, per year, without incurring any tax liability or being required to disclose the gift to the IRS. For example, you could give your child a gift of $15,000. That child would not have to file anything with the IRS, and neither would you. If you also gave $15,000 each to your other children in that same year, you would still not be taxed or required to disclose those gifts to the IRS because you would not have exceeded the $15,000 per person, per year limit. But what would happen if you exceeded the $15,000 limit because you gave a child $115,000? Two things.

First, you would have to file an IRS Form 709 Gift Tax Return. We highly recommend enlisting your accountant to prepare this return. This return would disclose the amount of your gift as well as any previous gifts that exceeded the $15,000 threshold.

Second, the amount over the annual gifting limitation would be deducted from your overall estate and gift tax exemption amount, commonly referred to as the estate tax "coupon," which is currently $11.7 million per person. This coupon is the total amount that any one United States citizen can give to non-spouse individuals before the estate property is subject to taxation. It can be used up partially or entirely during a person's life or after death, depending on the estate planning

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Gifting

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strategies employed. For the purposes of your gift to your child, this means that you would be required to file a Form 709 Gift Tax Return, reporting to the IRS that you exceeded the annual gifting amount by $100,000, and that your total remaining coupon was now reduced to $11.6 million.

Married couples who are both U.S. citizens also have the option to "split" gifts. Spouses can give their respective gifts to the same person, thereby leveraging the amount that can be given away hassle-free. For example, you could give your child $15,000, and your spouse could also give that same child $15,000 in the same year. Your child has now received $30,000 tax free, and neither you nor your spouse has used any of your estate tax coupon amount, or is required to file any special tax return.

So why does this matter?

Without any further action from Congress, the laws that originally increased the coupon from $5 million to $10 million will expire in 2026. The coupon amount will then drop back down to $5 million, indexed to inflation. Clients whose net worth exceeds $5 million could take advantage of the current coupon amount by using the entire amount now and give away up to $11.7 million without incurring any estate or gift tax. And of course, there is the possibility that Congress will elect to further reduce the estate tax coupon making it even more beneficial to gift significant amounts while it can be done in a favorable estate and gift tax environment. Individuals who gift the full amount now will not be penalized after the coupon amount reverts to a lower amount in 2026.

For clients with Spousal Lifetime Access Trusts or Self-Settled Trusts, the window of opportunity for leveraging the elevated estate tax coupon of $11.7 million, before it reverts to $5 million in 2026, is closing. The next four years present a unique planning opportunity. Furthermore, for individuals who have a net worth of less than $11.7 million, the primary downside to gifting significant amounts of money during life (other than no longer being able to spend it yourself) is the Form 709 filing requirement. So, if you were delaying a gift because you were concerned about incurring a gift tax, perhaps your decision is worth reevaluating.

Welcome, Matt!

Foley & Pearson is pleased to welcome attorney Matt Meggs to the firm. Matt graduated from West Point with a Bachelor of Science in civil engineering and moved to Alaska as his first duty

station. While in Alaska, Matt met and fell in love with his wife Michelle. After multiple duty stations, Matt attended and graduated cum laude from Seattle University School of Law with his J.D., finishing his third year in Alaska on the Alaska Satellite Campus. In 2019, Matt and Michelle achieved their long-term goal of returning to Alaska.

Upon his return to Alaska, Matt clerked for the Honorable John C. Cagle of the Palmer Superior Court. He continues to serve in the Alaska Army National Guard since leaving active duty.

Matt and Michelle have two children, Gerard and Liesl. The family enjoys gardening, fishing, and taking in baseball games on the radio.

Is it Time to Review Your Community Property Agreement?

By Chelsea R. Riekkola

For many married couples who have done estate planning, the elective Alaska Community Property Agreement is an integral part of the plan. The real advantage of the Community Property Agreement is its ability to minimize capital gains tax on highly appreciated assets after the death of the first spouse. For assets that are owned jointly by a married couple, but not as community property, there is a "step-up" in basis for the deceased spouse's "half" of the property if a surviving spouse liquidates appreciated property after the death of the other spouse/owner. This means that the surviving spouse does not have to pay capital gains tax on the deceased spouse's half of the value accrued prior to his or her date of death. However, the surviving spouse does have to pay capital gains tax for his or her own half of the accrued value.

Under current law, this tax can be eliminated by executing a Community Property Agreement. For assets that are scheduled on the Agreement as community property, when the first spouse dies, the surviving spouse gets a "step-up" in capital gains basis for the whole asset value—not just the deceased spouse's half. Effectively, this means that when the surviving spouse liquidates highly appreciated community property, he or she pays significantly less capital gains tax—and potentially none at all—depending on when the property is liquidated and the market conditions at that time.

While Community Property Agreements have been an available estate planning tool in Alaska for decades, a recent decision from the Alaska Supreme Court suggests that income and appreciation from community property assets should be specifically addressed in the Community

Property Agreement to ensure their treatment as community property. We are working with the Alaska legislature on a statutory fix that would ensure appreciation on community property is presumed to also be community property.

The bill progressed from the state Senate to the House of Representatives and will be up for consideration in the next

> We recommend scheduling an appointment to discuss whether an Amendment is in order.

legislative session. We encourage our ***Generations*** clients to contact their representatives and express their support of this legislation. In the meantime, if a Community Property Agreement is part of your estate plan, and it has been a few years since you came in to see us, we highly recommend scheduling an appointment with the attorney on your file to discuss whether or not an Amendment to your Community Property Schedule is in order.