IRS Issues New Rules Attacking Valuation Discounts

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Valuation discounts have been a mainstay in estate tax planning for decades. Generally, the “discount” reflects the difference in value between a pro rata ownership interest in a family owned venture and the value that a minority interest in the venture would receive if it was sold to an unrelated party. Since the estate tax is a tax on value, getting a lower value means lower estate taxes. In other words, less is more.

Since the 1990s, federal tax law has included special valuation rules that tried to reduce or eliminate valuation discounts in a variety of ways. This past August, the IRS issued new rules under these sections that very likely mean some discount planning will not be available and other valuation discounts will be significantly reduced. Family ventures that own illiquid assets, such as real estate and operating businesses, seem likely to continue to qualify for reduced valuation discounts while ventures that own liquid assets, such as stocks and bonds, may not get any discount at all.

The new IRS rules won’t be effective until 2017 at the earliest. For some clients, it will make sense to complete any planned transfers this year. For others, it may still make sense not to rush into giving plans that may not otherwise suit their goals. As always, we believe a customized approach to estate planning is the best course of action.