

GREYCOURT

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Greycourt wants you to be aware of potential IRS restrictions relating to valuation discounts on intra-family gifts. A hearing on the proposed limitations will be held on December 1, 2016 and it is likely that final regulations will be promulgated in early 2017. Thus, any family that is considering taking advantage of valuation discounts on intra-family gifts should consider making those gifts before December 1.

Since 1990 a valuation discount has been available to families who make intra-family gifts. For example, in the case of a family limited partnership or a family business, interests in the entity may be gifted subject to certain restrictions on transfer or liquidation. Courts have traditionally held that such restrictions entitle the donor to a valuation discount, thereby reducing or eliminating gift tax on the transfer. The gifted asset is removed from the donor's estate, along with any future appreciation in the asset.

The Service has long chafed at these tax planning strategies (which can include GRATs), but has been stymied by court decisions and state laws. The proposed regulations would severely limit tax planning in this area, making intra-family limitations on transfer or liquidation ineffective, even though such restrictions would be effective in a non-family situation.

The *New York Times* give this example: A family owns a \$100 million business and the matriarch dies owning 20% of the equity. Normally, a minority interest in a closely held business would be deeply discounted for valuation purposes. But because this is a family business the matriarch's 20% share would be valued at \$20 million in her estate.

Although it is possible that the proposed regulations could be modified before they are made final, prudence suggests that prospective intra-family gifts be made as soon as possible.

Please note that Greycourt cannot give legal or tax advice. Before engaging in an intra-family gifting strategy, please seek advice from your tax counsel.