

NEW ESTATE TAX RATES

With a new year, we get new estate tax rates. The new federal unified gift and estate tax exemption is \$5.49 million. The rate remains 40% of the amount over the exemption.

The state estate tax exemption increased to \$1.8 million this year. The first rate bracket is 10% of the amount over the exemption. Minnesota farmers and small business owners can pass up to \$5 million estate-tax free in Minnesota if they meet all the requirements.

Republicans in Congress and President Trump have both proposed to eliminate the federal estate tax. However, it is not clear how and when repeal of the estate tax would occur. In the meantime, we recommend our clients not make any irreversible decisions that hinge entirely on estate tax savings – a solid estate plan considers much more than estate taxes. It is important to cover the basics, such as naming a person to help in the event of incapacity and ensuring your wishes are followed.

NEW YEAR: NEW GOALS FOR BUSINESS OWNERS

For some people, the start of a new year is a great time to set personal goals and resolutions. This approach can also be applied to businesses. We've highlighted some suggested resolutions for business owners below.

Adopting these four resolutions is a great way to help continue or improve your business's success into the New Year.

Ward & Oehler wishes you a prosperous New Year and continued success for your business!

1. Evaluate or Create Your Business Plan

First, you should look back at what worked for your business and what needs improvement. An easy way to evaluate your business's successes and failures over the past year is to look at your business plan's goals and projections. Updating your business plan based on your reflections of the past year is a great way for your business to transition into the new fiscal year. Don't have a business plan? Right now is a great time to create one to help chart your business's course towards success.



2. Meet with Your Business Advisers

Have a meeting or touch base with your accountant, financial adviser, attorney, or business consultant. These business professionals can help you better identify what was successful for your business over the past year, and spot hidden weakness and planning opportunities.

3. Draft or Review Your Succession Plan and Estate Plan

While you are reviewing the other aspects of your business now is a great time to put a succession plan in place. Do you know who will run your business if you or a business member becomes disabled, retires, divorces, or dies? Are you thinking about stepping back from your role, or thought about the future role family members will play in your business? The best time to plan for both the foreseen and unforeseen changes for your business is *before* it is needed. A succession plan and an estate plan can help minimize disputes and provide a path for your business to continue to operate successfully. Succession plans can range from basic to complex depending on your business's and personal needs. Already have a succession plan? Review it along with your estate plan to identify needed changes.

4. Review and Update Your Company Records

Minnesota law requires businesses filed with the state, such as LLCs, to keep current records of their business. Make sure that your filings with the Minnesota Secretary of State are current and accurate. Importantly, make sure you are following the required formalities when conducting your business. Even small businesses and family businesses are required to follow certain business formalities, such as holding official meetings and documenting these meetings. Not following the required formalities can cause your business to lose its limited liability protection making your personal assets liable.

Key Legislation to Watch in 2017

Farm

- Gov. Dayton tax proposal includes \$34 million tax credit for farm land owners to relieve pressure from local school levies.
- Tax proposal also includes payment of \$40 per acre for buffer strips.
- MN House Bill would eliminate reporting requirements for farm land held in revocable trusts.

Estate Tax/Estate Planning

- Proposal to eliminate federal estate tax.
 - Repeal current estate tax
 - Institute new capital gains tax at death for unrealized capital gains over \$10m
 - Keep stepped-up basis and gift tax
- IRS proposal to eliminate valuation discounts unlikely to be adopted.

Non-profit/Business

- MN House Bill would update Nonprofit Corporations Act to clarify and make more consistent with Business Corporations Act.
 - Also includes requirements for conversion and merger
- Proposal to lower corporate tax rate to 15%, eliminate alternative minimum tax

Community Spotlight



ExercisAbilities is a 501(c)3 nonprofit organization that makes a real difference in many lives. Their philosophy is that lifelong recovery is possible far beyond the current limits of our medical and insurance model. They bring physical rehabilitation, health, wellness, and recreation programming to everyone, despite any need for adaptation, physical help or financial assistance to achieve safe, active, fun, and effective recovery from any medical illness or physical impairment. Clients include everyone from children to seniors. Many are severely disabled.

Attorney Jason Wagner and his wife, Phoebe, attended the **Rock for Recovery Gala** held in Byron to support ExercisAbilities in November. Attendees at the Gala included many clients and their families. It was inspiring to hear their success stories and how ExercisAbilities continues to believe recovery is possible even after insurance has run out.



ExercisAbilities recently purchased the 9,300 square foot building at 2530 North Broadway to expand its space and programming. Ward & Oehler had the opportunity to provide legal counsel for this commercial real estate transaction.

Prepare to Improve....

ExercisAbilities always welcomes **volunteers** to help with its programs. **Donations** can be made directly to the organization at its current address of 5335 East Frontage Road NW, Rochester, MN 55901.

Visit them on the web at <http://exercisabilitiespt.org/>

Transitioning the Family Farm: Use of Entities

In Southeastern Minnesota, family farms are not just the land, business, or way of life, but a direct link to the heritage and history of several generations. Here are a few common strategies farmers can use to ensure the farm operation will be there for the next generation.



Jason Wagner with his father, Wabasha County farmer Steve Wagner, brother, and other family.

One simple way to start the process is for the younger farmer to begin purchasing new machinery and livestock as the older machinery needs replacement and livestock is sold. This gradually moves some of the operating assets of the farm from the retiring farmer to the younger farmer.

As part of this, the family could establish a limited liability entity, such as an LLC, to hold operating assets. The interests in the LLC could then be gradually moved to the next generation. This strategy eliminates the

need to deal with specific assets since the LLC owns the assets and only the interests in the LLC changes hands.

Transferring farm land could also be done through an entity, depending on the particular situation. In some situations, farmers can lose agricultural homestead if farm land is owned by an entity. Other times, an entity such as an LLP or LLC can be a good choice as it allows for incremental changes. Partnerships can also be a good tool for managing ownership by several different family members. It might also make sense to put the land into a trust for estate planning reasons.

While tax and legal advisers can be extremely useful to the planning process, successful transition of the farm also depends on cooperation and good communication between the retiring farmer and the younger farmer. At the end of the day, both careful planning and good communication will better equip the next generation for continuing the legacy.

Our Year in Review

Another year is in the books – and a great year it was! Here are a few things we worked on:

- Drafted and implemented over 200 estate plans.
- Formed over 100 new entities.
- Administered many estates, with total value administered being over \$40 million.
- Handled sales and purchases of farm and business properties valued over \$50 million.
- Provided over 100 hours of pro bono, non-profit, and community service.

Thank you to everyone who has put your trust in us in 2016 and years past.

We look forward to faithfully serving your legal needs in 2017!



When to Review or Update Your Estate Plan

Getting your estate plan in place can feel like a major accomplishment (and it is!), but it is not the end of the story. While the estate plans we prepare for our clients are intended to be long-lasting and flexible documents, there are certain times when you should pull out documents to be sure they still reflect your wishes.

Here are some times when you should do this:

- Change in marital status
- Birth of child
- Children reach adulthood
- Change in who you want to act on your behalf
- Receive an inheritance
- Start a business
- Retire
- Anticipate needing long-term care
- Transfer farm/business
- Changes in federal or state estate laws
- Change distribution plan

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