



# HECKSCHER TEILLON TERRILL & SAGER, PC

CELEBRATING 30 YEARS  
OF EXCELLENCE FOR OUR CLIENTS

January 16, 2025

To Our Clients and Other Friends:

Happy new year! We hope that everyone had an enjoyable holiday season.

We wanted to bring to your attention some important developments in the law over the last few months that may be pertinent to your estate and tax planning, and to remind you of some other deadlines and changes on the horizon.

## **Estate, Gift and GST Tax Exemptions and Gift Tax Annual Exclusion for 2025**

The federal estate, gift and generation-skipping tax exemption amounts, which were \$13,610,000 each per person in 2024, increased to \$13,990,000 each as of January 1, 2025. The annual exclusion amount was \$18,000 per donor per donee in 2024, and as of January 1, 2025, the annual exclusion amount increased to \$19,000 per donor per donee, or \$38,000 when a married couple joins in making a gift.

After December 31, 2025, under current law, the current exemption amounts are slated to automatically “revert back” to the lower, pre-2018 exemption amounts (\$5,000,000 each, but indexed for inflation from 2011, so around \$7,000,000 or \$7,500,000). Given the election, many expect that this reduction will not occur. However, the threat of the potential reduction to the exemption amounts, and the value of gifting to exclude growth, will continue to cause clients to implement strategic gift planning for wealth preservation purposes.

## **Noteworthy Points from Final SECURE Act Regulations**

SECURE Act 1.0 and 2.0 made substantial changes to the rules governing tax-advantaged retirement accounts, such as 401(k)s, IRAs and 403(b)s and Roth versions of those accounts. Since then, the Treasury Department has issued regulations, the most recent of which became effective in 2024. The legislation and subsequent regulations were sweeping in scope and hard to summarize in just a few points, but here are some of the most important elements:

- One of the biggest changes as compared to prior law was to make shorter the period over which most non-spousal beneficiaries or qualifying trusts could stretch distributions, typically the end of the year of the 10<sup>th</sup> anniversary of the decedent’s death, as compared

to the life expectancy of the oldest beneficiary. This means, for example, that for an account owner who died in 2020, the beneficiary must withdraw the entire account balance of the inherited account no later than December 31, 2030.

- The final set of regulations states that most beneficiaries of a decedent who died on or after January 1, 2020, and who died after his or her “required beginning date,” must take a minimum distribution each year during the 10-year period following the year of the original account owner’s death. Recognizing the uncertainty in the original law, in 2024, the IRS announced that no penalties will be imposed on beneficiaries who did not take required minimum distributions from 2021 through 2024. For many beneficiaries, 2025 will be the first year in which a required minimum distribution must be taken. This annual minimum distribution requirement does not apply to most beneficiaries of Roth accounts, who need only withdraw the inherited Roth IRA funds by the 10-year deadline.
- The 10-year distribution rule does not apply to beneficiaries of decedents who died before 2020, who remain governed by the prior rules.
- The rules governing a retirement account payable to a surviving spouse are largely unchanged, although there are some changes to the rules that govern when a retirement account is payable to a trust for a surviving spouse.
- The new laws and regulations created a new set of rules for beneficiaries who are disabled or chronically ill and who meet certain requirements. These rules allow such beneficiaries, or qualifying trusts for such beneficiaries, to potentially withdraw funds over the life expectancy of the beneficiary, rather than 10 years, which can potentially offer significant tax-deferral advantages.
- For account owners, careful estate planning for tax-advantaged retirement accounts remains important. In particular, account owners should check their beneficiary designations periodically to make sure they dovetail with their overall estate plan.
- For individual beneficiaries, or trustees of trusts that own an interest in an inherited retirement asset, it is important to understand the required minimum distributions that apply to the account at issue. Trustees also should consider, consistent with the terms of the trust, whether the taxable income on withdrawals from an inherited IRA owned by the trust will be taxed to the trust, or to the beneficiary of the trust, and whether there is planning that could be done to reduce the overall income tax burden.

### **Pennsylvania Grantor Trust Status Beginning January 1, 2025**

Beginning January 1, 2025, Pennsylvania joined the other forty-nine states (and the District of Columbia) in recognizing irrevocable grantor trusts. Effective for tax years starting in 2025, a resident trust (or a nonresident trust that receives income from sources within Pennsylvania), that is a grantor trust for federal income tax purposes will be treated as grantor trust for Pennsylvania income tax purposes, as well. Accordingly, income will be taxable to the grantor for both federal and Pennsylvania income tax purposes, regardless of whether or not the trust income is distributed to the beneficiaries.

An immediate focus for clients and their accountants will be to consider changes to planned estimated income tax payments for 2025, the first of which will be due April 15, 2025. A grantor trust that previously had been making estimated payments to Pennsylvania may no longer need to make estimated payments with respect to its taxable income. Instead, the grantor may want to factor the grantor trust's taxable income into the grantor's estimated Pennsylvania income tax payments for 2025.

### **Pennsylvania Uniform Directed Trust Act**

In 2024, Pennsylvania enacted "Act 64," which made several changes to Pennsylvania's estate and trust statutes. Perhaps the biggest change was to add so-called "directed trust" statutes.

Pennsylvania now joins over 40 other states and the District of Columbia that permit directed trusts via statute. Through a properly drafted directed trust, a "trust director" can direct trustees to take certain actions, and the trustees must follow those instructions (in most cases without liability for doing so). A trust can be drafted to give the trust director the power to direct many different types of trustee actions, including powers over investments and distributions. The new directed trust statute also permits the appointment of "trust protectors," which can grant a trust director the power to modify a trust and/or remove trustees.

All-in-all, Pennsylvania's directed trust statutes allow additional flexibility in drafting trusts. For example, a directed trust might be useful when a trust will hold unusual or highly-concentrated and undiversified assets. Additionally, a trust protector can help address unforeseen or unanticipated situations that can arise with trustees or beneficiaries.

### **Corporate Transparency Act**

The Treasury Department's Financial Crimes Enforcement Network ("FinCEN") issued Final Regulations for the Corporate Transparency Act ("CTA") at the end of 2022. The Final Regulations went into effect as of January 1, 2024. In general, the CTA and the Final Regulations require certain business entities referred to as "reporting companies" (such as corporations, LLCs and limited partnerships, but not private trusts) to file beneficial ownership information reports with FinCEN, and the Regulations initially imposed a December 31, 2024 deadline for most reporting companies (those formed before January 1, 2024).

It has been a volatile situation in the courts regarding the CTA over the last few weeks. As of the writing of this communication, FinCEN has been enjoined (prohibited) by a federal court from enforcing the CTA. On December 27, 2024, FinCEN issued the following statement:

In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force. However, reporting companies may continue to voluntarily submit beneficial ownership information reports.

Whether an entity must file a beneficial ownership information report with FinCEN is subject to change depending on how the litigation over the constitutionality of the CTA develops. Advising our clients on these matters is not the primary focus of our practice, and we therefore strongly encourage clients to consult with their primary corporate or financial advisors and to continue to monitor these developments to determine whether a filing ultimately becomes required. FinCEN's website ([www.fincen.gov/boi](http://www.fincen.gov/boi)) is a useful source of information and we expect FinCEN to provide updates on any changes to filing requirements through that website.

### **Pennsylvania Act 122 Goes Into Effect**

Beginning January 1, 2025, Pennsylvania will require an annual report for all domestic entities, such as business corporations, nonprofit corporations, limited liability partnerships, limited partnerships and limited liability companies, but not private trusts. Foreign entities that are registered to do business in Pennsylvania also will have to file an annual report.

In the annual report, the entity must report its: (1) name, (2) jurisdiction of formation, (3) registered office address, (4) name of a "governor" – i.e., a director, member, manager, general partner, etc., (5) names and titles of principal officers, (6) address of its principal office, and (7) Pennsylvania entity number.

Corporations (including non-profit corporations) must file the annual report by June 30, 2025, limited liability companies (LLCs) must file by September 30, 2025 and all other entities must file by December 31, 2025. The filing fee is \$7. Pennsylvania will send notices to ensure compliance and therefore it will be important for entities to ensure their contact information with the Department of State is current.

### **Looking Forward**

Our firm was thrilled to celebrate its 30<sup>TH</sup> anniversary at the end of 2024. We are grateful for the opportunity to work with so many wonderful clients and friends, and we look forward to continuing our decades-long tradition of delivering the highest quality trusts and estates legal services in 2025 and beyond.

If you would like to discuss any of the foregoing developments in more depth, please do not hesitate to reach out to your HTT&S attorney.