



## *Transferring wealth & wisdom from generation to generation*



*Edward E. Wollman, JD, LL.M.*  
WOLLMAN, GEHRKE & SOLOMON, P.A.

# CHANGE IS INEVITABLE

### *The New Presidency Combined with Pending Section 2704 Regulations*

will Inevitably End in Significant Tax Law Changes The IRS recently proposed expanded IRC Section 2704 regulations designed to prevent taxpayers from discounting the value of gifts, estates, and business interests on intra-family gifts. These new regulations will not be effective until after a public hearing plus 30 days. The hearing will take place on Dec. 1, 2016. In order to understand the potential changes coming with these regulations, it is essential that you understand what the IRS is talking about in plain English. Exactly why does the IRS want to eliminate “discounting” on certain transfers of family businesses? What is the “abuse” that they are trying to eliminate or discourage?

Under the new proposed section 2704, it will no longer be possible to divide your business into small pieces and value the gifted share any lower than its actual fair market value. The IRS does not like the use of “discounts” in business valuations when transferring family owned businesses from one family member to another. The best way to explain these potential new and complex rules is through an example:

Mr. and Mrs. Frost own an Ice Cream Parlor structured as a business (e.g. family limited partnership). They wish to gift or sell some of the business to their sons, Ben and Jerry. As long as the gift or sale is less than 50 percent, Ben and Jerry lack majority “control” over the business. Their parents also want to restrict them from selling their share to an outsider, so they add “restrictions” on future transfers. Now it is very difficult, if not impossible, for the boys to sell their minority share for full fair market value. Their parents still hold the proverbial keys to the kingdom.

Based on these facts, the Frosts sell a 45 percent business interest to their sons at a greatly reduced or “discounted” price. Currently this is allowed because their parents retain control by owning the majority share. However, the IRS does not like the discounted value because it means less tax is imposed on the transaction. If the new regulations are passed as proposed, the IRS will disregard inter-family discounts when valuing transferred business shares. The higher valuation will result in higher taxes.

The Trump Presidency will also greatly impact our current tax structure. As stated on his official website, “The Trump Plan will revise and update both the individual and corporate tax codes. Tax simplification will be a major feature.” Not straying far from Republican Party traditions, Trump will cut taxes mainly for the rich. He also plans to completely eliminate the estate tax currently imposed on estates worth more than \$5.45M (\$10.9M for married couples).

The bottom line is that taxpayers considering a wealth transfer have a motivating reason to put their plans into motion. We suggest seeking a tax consultation with your attorney, accountant, and financial advisors in the very near future. There are numerous estate planning and income tax planning techniques that can still be utilized before the “inevitable” regulation changes occur. This will enable you to better control your families’ financial destiny preserve your legacy for the next generation.

Go to [www.probate-florida.com](http://www.probate-florida.com) to read more about this subject.  
Learn how you can have your cake and eat it too.

*Ed Wollman is a FL Bar board certified wills, trusts and estates attorney with 26 years experience practicing in the state of FL.*

2235 VENETIAN CT #5, NAPLES, FL 34109  
(239) 435.1533 — (239) 435.1433 FAX