

Blaugrund, Herbert & Martin

I N C O R P O R A T E D

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Is the QFOBI Really Dead?

Before you chuck your business succession plan in the trash, make sure you are not throwing away some valuable Ohio estate tax deductions. Even though the Qualified Family Owned Business Interest ("QFOBI") deduction under Section 2057 of the Internal Revenue Code is being repealed in 2004, it continues to be a viable planning tool for reducing Ohio estate taxes.

The Economic Growth and Tax Relief Reconciliation Act of 2001 eliminated the federal QFOBI estate tax deduction beginning on January 1, 2004. This taxpayer friendly provision was designed to give a break to family business owners who passed their business down to the next generation. Ohio adopted the QFOBI deduction against the Ohio estate tax when it enacted Ohio Revised Code §5731.20. This Ohio statute incorporated Section 2057 of the Internal Revenue Code into Ohio law as the federal law existed on September 29, 2000. Like many tax breaks, the IRS required business owners to comply with several conditions before they would qualify for the deduction. Following the advice of their business and tax advisors, business owners took the time and incurred the expense of restructuring their business affairs to take maximum advantage of

this provision.

With the federal repeal of the federal QFOBI deduction, it seemed that all of the planning and effort that went into restructuring the business and personal estate plan to qualify for the deduction was all for naught. However, The Ohio Department of Taxation ("ODOT") has recently indicated that even though the QFOBI deduction has been eliminated for federal estate tax purposes, it will still apply for Ohio estate tax purposes. ODOT has stated that even though Section 2057 of the Code will be completely removed from the Internal Revenue Code on January 1, 2004, it continues to live on in Ohio law until the General Assembly amends §5731.20. Thus, Ohio taxpayers should be able to take full advantage of this deduction against their Ohio estate tax burden.

Even though the Ohio the estate tax is not nearly as burdensome as the federal estate tax, the Ohio tax savings resulting from the use of the Ohio QFOBI deduction are nonetheless significant. If you implemented a business succession plan with the QFOBI deduction in mind, consult with your business and tax planning advisors before you abandon that plan. It could still provide you with substantial Ohio estate tax savings.

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