ESTATE PLANNING UPDATES

Connecticut Estate and Gift Tax Changes

One of the main focuses of estate planning is to minimize federal estate tax since the 35% rate on estates greater than $5,000,000 is significant. In addition, eighteen states assess a separate state estate tax with New York, New Jersey and Connecticut among them. Connecticut was considered the tri-state "tax haven" because it had an estate tax exemption of $3,500,000 compared to $1,000,000 for New York and $675,000 for New Jersey. However, in an effort to raise revenue, Connecticut did the unthinkable on May 4, 2011 and *lowered* its estate *and* gift tax exemption to $2,000,000 effective January 2, 2011.

What does this mean for you? Unless you become a resident of Florida, which has no estate tax, it is very likely that most estates in New York, New Jersey and Connecticut will be subject to some form of *state* estate tax. However, with proper planning involving the use of an Irrevocable Trust (to avoid estate tax on life insurance proceeds) and "credit shelter" Wills (which can be used to shelter non-life insurance assets from estate tax), state estate tax can be minimized.

Creditors and Asset Protection

In our litigious society, the greatest fear of most professionals (such as doctors, dentists, attorneys, accountants, engineers and architects), as well as real estate investors and business owners, is that their life savings can disappear overnight. The key to protecting assets is timing. Any planning implemented *after* a lawsuit will be considered a fraudulent conveyance and will be voided. Instead, the key is to take steps *before* an incident occurs.

Estate planning and asset protection go hand in hand and a number of the techniques which are used to avoid estate tax also help reduce exposure to creditors. Irrevocable Trusts, credit shelter Wills, limited liability companies and transfers to spouses who are in professions which are less likely to be sued all help discourage lawsuits. Qualified retirement plans, such as profit-sharing, defined benefit and 401(k) plans, offer the best protection from creditors since they are exempt under federal law. IRAs are governed by state law, but New York, New Jersey and Connecticut all have strong shield laws. Conversely, South Carolina, for example, does not offer any protection for IRAs, so please be sure to contact us before you retire if you are concerned about your exposure to creditors. ■

If you have any questions about estate planning, please call Michael Markhoff, Esq.

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