

The “Daily Plan-It™”

ESTATE & BUSINESS LAW GROUP, P.C.

Volume 12, Issue 4

2/25/2010

Why the Federal Estate Tax’s Repeal Might Cost Your Client’s Family More

No estate tax? Great! Uncle Sam won’t get a dime of my client’s estate if he dies this year, right?

Not so fast. While that might be true for some clients, many beneficiaries who inherit appreciated assets now face a capital gains tax.

How Did This Happen?

Due to Congress’s inaction last year to pass a revised version of the 2001 estate tax bill or to extend 2009’s rules of a \$3.5 million exemption and 45% tax, the estate tax law automatically repealed on Jan. 1.

What many experts didn’t realize was that this repeal also means the demise of a portion of the law that allows assets to be “stepped up” to their date of death value at the passing of the owner without the levying of a capital gains tax on the appreciation of those assets.

While the current law has no estate tax, it does tax assets that have appreciated above a \$1.3 million exemption when sold by heirs.

As an advisor, this presents you with an interesting and challenging issue when guiding your clients on their estate planning.

While the demise of the 45% estate tax certainly helps some clients and their families more than a 15% capital gains tax would hurt them, the reverse can be true for many others.

According to the Tax Policy Center, this change will negatively affect the families of at least 50,000 taxpayers who die this year. In contrast, the old law affected only about 15,000 estates per year.

Interesting Case Study

The Wall Street Journal recently ran an article about this fiendishly complex issue titled, “*Why No Estate Tax Could Be a Killer.*” You can read the article here: <http://bit.ly/aWepg8>.

In the article, attorney Beth Shapiro Kaufman developed estimates showing who would be better off under last year’s law versus this year’s system. She determined that heirs of estates with assets totaling

between \$1.3 and \$4.3 million would have been better off last year, while those with larger estates will fare better this year.

This is a very interesting argument that is causing a lot of discussion.

Our suggestion is if you have a client with any low basis assets, whether they are stocks, a family business or real estate, talk to them now about how this new law works.

What to Tell Clients

Urge clients to review their assets with an estate planning attorney to determine how the new law will affect them. In addition, encourage them to avoid irrevocable actions, such as distributing or selling assets, while this situation remains unresolved.

As always, I hope this article has helped you and your clients. If you have a specific concern or issue, please contact our office.

Workshop Schedule

The Truth about Estate Planning

Usually Tuesday nights, 7:00 pm
(Please call for current dates)



IRA Preservation Planning

Learn how to properly protect your IRAs and what the IRA Preservation Trust can do!

(Please call for current dates)

On February 8, 2006, President Bush signed into law the Deficit Reduction Act of 2005 (DRA 2005), which included the most sweeping changes to [Medicaid](#) laws ever enacted.

Medicaid Planning Workshop

The new Medicaid laws and some of the planning options that are still available, even in light of these sweeping changes.

Usually Tuesday nights, 7:00 pm

(Please call for current dates)

Registration: Contact Mary Lang at (847) 367-4460

<http://eblawgroup.com>

ESTATE & BUSINESS LAW GROUP, P.C.

Howard M. Lang, J.D. & Marguerite A. Kopke, J.D.

847-367-4460

We invite you also to direct your clients to
http://eblawgroup.com/FAQ_medicaid.htm
for more information on Medicaid Planning.