PASADENA LAW GROUP

1ST QUARTER 2013

LAWYER FOR *Life*

KEEPING YOUR FAMILY HEALTHY, WEALTHY & WISE

IN THIS ISSUE:

ESTATE TAXES AND PLANNING AFTER THE FISCAL CLIFF

The past decade has been full of surprises as far as estate taxes are concerned. First the estate tax was eliminated—albeit temporarily—in 2010 (the first time this has happened since 1916.) Then in 2011 the new exemption was set at $5 million, an unusually high amount, and set to last for two years. The taxes and exemptions for gifts made during one's lifetime to children and grandchildren were also raised to $5 million (up from $1 million.) These changes to the estate tax laws pleased many wealthy families, but also had them worried about what would happen when (as inevitably occurs) these beneficial laws were changed.

So it's no surprise that the beginning of 2013 brought with it some concern about how the American Taxpayer Relief Act passed by Congress in the first week of the year would affect estate and gift taxes, and thus the estate planning process.

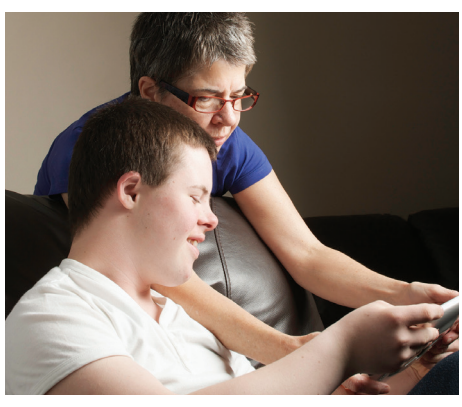
Thankfully, the new law has merely solidified the current tax rates. The estate and gift tax exemptions are now permanently set at the same $5 million level (indexed for inflation.) Any individual whose assets are over that level will pay a tax rate of 40 percent. What this means is that with the inflation indexing, the exemption is already up to about $5.25 million per person — double for a couple — and it will rise at a rate that will allow most Americans to continue to avoid paying federal estate taxes.

It is hoped that with this new law, and with the tax exemptions and rates solidified, creating an estate plan will be much simpler and more straightforward. Less wealthy people now may not need as much estate planning as was previously necessary, and many families will welcome a future of more straightforward wills and trusts, without nearly as much need for gifting deadlines or lifetime wealth transfers.

While the American Taxpayer Relief Act is certainly cause for celebration, it does not mean that families can afford to be lax about their estate planning. The federal exemptions may be set high, but many state and local tax exemptions are still much, much lower, and should be taken into account. Couples or individuals who plan to retire to another state based on the lure of their tax policies should come into our office to plan for that. Not only can we help you plan for your future, but we can also ensure that you are prepared in the present should the unexpected occur.

Furthermore, estate planning is about much more than simple tax preparation. In fact, for many families tax planning is only a small part of their estate planning. Instead, the creation of an estate plan and the drafting of a family trust is about protecting minors, managing wealth for the benefit of many future generations, and passing on family values. A long-term trust is like an endowment for a family. Just because we're no longer up against a cliff doesn't mean planning isn't necessary; rather, it means that families can put the proper care and thought into creating a plan that will last for generations.

HOW TO PROTECT A CHILD WITH SPECIAL NEEDS



The thought that your child may have to survive on his or her own before they are ready is every parent's worst fear; it's what keeps many parents up at night, and what brings many parents into our offices asking about trusts, guardians, and estate plans. For parents of children with special needs that fear of leaving their child unprepared is magnified, because parents of children with special needs don't know if their child will ever be able to fully support themselves—even when they are well into adulthood.

Structuring an estate plan with a special needs child as a beneficiary takes special consideration. Because a direct inheritance could disrupt that child's public benefits, some parents simply leave another child all their assets in their will. If there are three children, they might leave two-thirds to the child who lives closest to the one with special needs.

Unfortunately this particular strategy is rife with possible dangers. The heir may be tempted to use his special needs sibling's money for his own purposes, or could decide he's simply tired of being a caretaker. Even worse, the heir could pass away unexpectedly, in which case the entire inheritance would go to the heir's spouse or children, with nothing left for the special needs child.

One way to help ensure that your special needs child will be taken care of—even when you can't be there anymore—is to create a special needs trust. In fact, a special needs trust is almost essential for any child (or adult) who will rely on government assistance for much of his or her life.

A special needs trust typically will hold funds to be used solely for the child, usually to cover out-of-pocket costs related to the child's care and living expenses, but the money won't be in his or her name. This is important because if your child becomes "too wealthy" (by government standards) he or she could be disqualified from benefits such as Supplemental Security Income or Medicaid.

Many state and local governments are tightening income restrictions for medical benefits and supportive services, which are typically paid for by Social Security and Medicaid. Those services are tough to find—or afford—in the private sector for many adults with disabilities so severe that they can't live alone. As a result, it's increasingly important to structure an inheritance in a way that won't disqualify a child for such benefits down the road.

The process of creating a special needs trust can be a great opportunity to anticipate your child's lifetime needs, review your current (and potential future) assets, and plan not only for your child, but also for yourselves in the coming years. Every child and every family will have different needs, and no two trusts will be the same. We can help your family find the solution that is right for you.

ESTATE PLANNING FOR YOUR DIGITAL ASSETS

Do you have an e-mail account?

Do you participate in Facebook or other Social Networking sites?

Do you do any of your banking, bill paying or investing online?

We live in a digital world. With every year that passes, more and more of our lives are moving into the digital realm. This includes friendships, networking, business and banking. Many people would now consider their Facebook password to be just as secret and sensitive as a credit card or social security number!

We all know the convenience of living so much of our lives online—in fact, some in the younger generation can't remember living any other way. The age of the Internet, the iPad and the cell phone means that we have unprecedented freedom and global access; it also means, however, that huge portions of our lives are locked away behind password protected accounts, many of which our friends and relatives aren't even aware. Online accounts are incredibly convenient, but they can create huge problems if your executor or agent has no way to retrieve your online passwords, assets or contacts after you die.

Estate planners are not blind to this development. They understand that family heirlooms and records aren't what they used to be. Nowadays everything from photos and music to financial statements and tax documents are increasingly likely to be created, stored or accessed via computers, mobile phones or other devices. Unfortunately, while people understand how important digital assets are, very few of them plan for those assets.

Some large online service providers are developing policies to deal with the transfer of accounts upon the death of the user, but the process is rarely a simple one. Some companies require a death certificate before they will agree to shut down an account or turn over the contents, but rarely will an online company transfer actual ownership. It could take months or years of headaches and frustration before your heirs have access to any assets or information locked behind these online protections.What this means as far as estate planning and asset protection is that when you talk to your attorney or financial planner about protecting your assets it's not just about physical assets anymore; digital and online accounts and assets must be part of the conversation.

A PERSONAL NOTE FROM JAN

Welcome to the Pasadena Law Group's first newsletter about estate planning. I hope you like it!

I've always prided myself on providing useful knowledge and information about estate planning to the people I work with. My experience is that people always want to know more. So, my plan is to provide regular newsletters. Please let me know what you think of this one.

I am sending this to you because you've been kind enough to show an interest in the Pasadena Law Group. Thank you so much!

If you prefer not to receive this newsletter, please let me know and I'll take you off the list. The last thing I want to do is send you an email you don't want or need!

As always, if I can be of assistance to you, please don't hesitate to contact me.

Jan Copley

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