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INSIDE THIS ISSUE...

Big Discounts on Fees For Family

We want your children and your brothers and sisters to join our "family" of clients. Certainly, if they have children, they should have a Will and if they own their own home they should have a Trust. They need to protect their families from Probate and create a protective distribution plan for their children in the event something happens to them. They should also have Powers of Attorney for Health and Property. They need to protect themselves from the Guardianship Court in the event of a disability. We have always provided a 10% discount to family members, however***, if you refer a family member to our office for any estate planning services before June 15, 2010, we will provide them with a 15% discount off our flat fee schedule of services.*** Better yet, if they attend one of our dinner seminars in June or July, they get a great ***free dinner***, 2.5 hours of legal education and a $500 coupon on our PAT trust or $200 coupon on our standard Trust (we'll give them the greater of the coupon or the 15% discount, but not both). ***Call today*** for the date and location of our next dinner seminar.

The Law Office of Bruce Kiselstein, Ltd.
NEWSLETTER

Trusts, Estates, Taxes & Asset Protection - A Problem Solving Law Firm

I Have A Trust, So After I Die, Nothing Has to Be Done, Right? WRONG!

By creating and fully funding your trust, you know that your children will avoid probate. They may also be able to reduce or eliminate estate taxes. So all that they need to do is follow your trust and distribute the assets according to the terms of the trust, right? Well, unfortunately, there are several ways that your trustees can muddle your plan after you are gone. Trust administrations must be handled precisely.

1) **Taxes after Death?** After your death, your trust becomes a separate taxable entity. This means that your trustee will not only need to file your final income tax return, but also, an income tax return for the trust (Form 1041). We have seen trustees distribute assets, only to find out that taxes need to be paid after the distributions have been made. Try getting money back from a beneficiary after the distribution!

2) **We shared everything, so now it's all mine!** If you are married and have two separate trusts, keep them separate. Many of our clients waste their federal estate tax exemption, because the surviving spouse distributes the assets from the deceased spouse's trust to his or her own Trust. Remember, the surviving spouse is most often the successor trustee and sole beneficiary of the trust, so you can still maintain control, without losing the first (deceased) spouse's exemption, provided you maintain two separate Trusts.

3) **Watch out for IRA's! This can be a big problem.** We have dealt with several beneficiaries who have filed claims for the IRA, 401(k), or other retirement plans proceeds. Annuities can be a problem as well. Once the proceeds are distributed, we cannot put the "genie back in the bottle." The following April 15th, your beneficiaries will have a large tax bill. This is really disappointing when you have saved over a lifetime to accumulate your retirement plan savings. Also, beware of the "designated beneficiary" rules. If you've left money to a charity and IRA proceeds are distributed to the charity, the remaining beneficiaries are stuck with a much shorter withdrawal period of five years. (Please see Page 4 for more details.)

4) **My children would never fight!** We hear this from almost all of our clients. Then we deal with their children after mom and dad are gone, no longer there to referee. Even if your trustee has done everything correctly, the beneficiaries are entitled to an accounting. We have handled accountings where the trustee has managed the assets correctly and distributed those assets according to the terms of the trust, but we must prepare accountings because one beneficiary points a finger at the Trustee, making accusations of misappropriations of Trust assets.

5) **But my spouse and my children get along.** Second marriage cases consume huge chunks of our time in the administration process. These are our most difficult cases, especially when the administration has commenced before we became involved. Step-children and step-parents often dispute Trust operation and distribution.

Almost all of our trust administrations tackle these issues. We cannot guarantee that your beneficiaries will get along after you are gone, but we can assure you that if your Trustee meets with our office after your death, we will competently navigate them through the maze of trust administration. Our goal is to get them to the final distribution without litigation and with the lowest expense possible. Remember, if you have created a Personal Asset Trust[SM], the initial consult after your death is free. Make sure that if your Trustees do nothing else, they contact us so that we may meet with them and direct them to administer your plan properly.

We Want Your E-Mail Address!

We can send our clients tax updates, rate changes, new law information, etc., faster and easier, if we have your e-mail address. Please call us at 847-670-8200 (24 hours) and give us your e-mail address or e-mail your name and e-mail address to our secretary at kzkoenig@sbcglobal.net.

2010 Tax and Other Rates			
Annual Gift Exclusion	$13,000/person	IRA Over Age 50 "Catch-Up" Extra Contribution Limit	$1,000
Federal Estate Tax Credit Amount	Unlimited (for 2010)	401(k), 403(b), and 457 Plan Extra Over 50 "Catch-Up" Limit	$5,500
Illinois Estate Tax Credit	Unlimited (for 2010)	FDIC Insurance	$250,000 per depositor until 12/31/2013
Estate Tax Rate	Not Applicable (none for 2010)	Medicare Part B Standard Premium (may be more if over income limits)	$110.50
Roth IRA/IRA Annual Contribution Limit	$5,000	Medicare Part B Deductible (plus 20% co-insurance)	$155.00
401(k), 403(b), and 457 Plan Annual Contribution Limit	$16,500	Medicare Part A Deductible	$1,100.00

IS NOW THE TIME FOR A ROTH CONVERSION?

A lot of commentators have discussed the ability of an Individual Retirement Account owner to convert a Traditional IRA to a Roth IRA in 2010, since there is no limitation on the amount of adjusted gross income the account owner can earn. Previously, if you had an IRA, but had income in excess of $100,000, you were not allowed to convert to a Roth. You should consult either our office or your financial advisor (and possibly both), before converting, but a few of the estate planning factors you should consider are as follows:

1) What is your income tax rate now vs. what the rates will be in the future?

2) If you do not intend to take withdrawals from the Roth and pass the Roth to your beneficiaries, what will their rates be? (Roth IRA owners are not required to take a required minimum withdrawal; your beneficiaries, however, who inherit a Roth, are required to do so.)

3) You should have cash or other easily accessible assets to pay the income tax on the conversion. If you pay the tax from the retirement plan account, it will be harder to recoup the cost of the income tax paid out of the account.

4) Is your estate taxable, or will it be taxable? Paying income tax now, through a Roth conversion, may avoid estate taxes later, by reducing the size of your estate. This is especially important if the exemption amount returns in 2011 at only $1,000,000, as is scheduled under current law.

5) What are the ages of your beneficiaries? If you include grandchildren as beneficiaries of your Roth, imagine the tax-free growth on those assets over their life expectancies.

6) Does your current trust take advantage of the IRA stretch rules? If your trust was created before the 2005 IRS Private Letter Ruling that approved our IRA Inheritance Trust®, you need to bring the trust into compliance, to at least "stretch" distributions over the oldest beneficiary's lifetime. If you have multiple beneficiaries and have qualified retirement plans and/or IRAs in excess of $200,000, we strongly recommend you contact us for our IRA Inheritance Trust® Special Report, to see if the IRA Inheritance Trust® makes sense for your family.

Please contact Kathy Koenig at 847-670-8200 for the report or to schedule an appointment to inquire about this opportunity.

2010 – Championship Season for Estate Taxes or Apocalypse Now?

If you have attended our seminars at any time in the last ten years, or have met with us, you are aware that the Estate Tax Exemption has gradually increased and was repealed in 2010, only to return in 2011. Every expert in the estate planning field has advised professionals and clients that Congress would never allow repeal, only to have the Estate Tax return at an exemption level of $1,000,000. Many experts thought that the Bush Administration was setting the Estate Tax up for total repeal, because of the unpopularity of the "Death Tax." It sounds more ominous than the "Estate Tax," doesn't it? However, with Health Care Reform, the Afghanistan and Iraq Wars, Medicare Part D, and Katrina, there was no consensus on repeal or on increasing the exemption, due to the increasing Federal debt.

Last year, the Obama Administration released its budget and proposed locking in the $3,500,000 exemption for 2010 and beyond. The problem has been with the Byrd Rule, named after Senator Robert Byrd, which states that no tax cuts can be permanent unless paid for with other increases or cuts in spending, unless that law "sunsets" in ten years. That's why the Estate Tax legislation only lasts through 2010. Congress was also bogged down with Health Care Reform. No matter what your opinion is on the Health Care Reform bill, it has demonstrated the inability of Congress to act. Unfortunately, that has spilled over into the Estate Tax realm and made planning terribly difficult.

So what does that mean for you? Is this the year to die? Many of our clients have made this joke, but dying this year may be even more difficult on your family. Because we are dealing with repeal of the Estate Tax, Congress thought of another way to make up revenue. What they decided was to go back to the "carryover basis" rules of the late 1970's. This means that if you die this year, even though your **estate** will not pay taxes, the "cost basis" of the inherited assets will be the **original purchase price** and not the date of death value. Individuals are allowed to utilize a $1,300,000 allowance for basis adjustment with a $3,000,000 adjustment for spouses.

Suppose I am a widower dying in 2009 with an estate valued at $3,400,000. Under the 2009 Estate Tax Exemption, I would have paid no Federal Estate Tax and my child would acquire my estate with the assets having a total "date of death" basis of $3,400,000. If she liquidated my entire estate (imagine it was all in stock) she would pay no capital gains tax and no Federal Estate Tax.

Now imagine the same scenario in 2010. My $3,400,000 estate was created from stock that I purchased in 1999 from a couple of my math buddies at Stanford. Their start-up company was named Google. (I did not attend Stanford, nor do I know the founders, so please, no calls for tips.) I purchased my shares in 1999, for $10,000. My daughter is advised to diversify her father's portfolio and sells all the shares in 2010. She has an adjustment of the $1,300,000 allowance, bringing her basis to $1,310,000. At the 15% current capital gains rate, this would cause $313,500 in income tax on the sale of that stock, even with repeal of the Estate Tax!

Under the same circumstances, if I am survived by my wife, she could utilize the $3,000,000 marital basis adjustment plus the other $1,300,000 basis adjustment, to eliminate the capital gains tax at my death. But, what if my wife dies in 2011 with a return to the $1,000,000 Estate Tax Exemption? If she had no other assets other than my $3,400,000 Google stock, she would be hit with a Federal Estate Tax of $1,165,000. WOW!

So what do we do now? Contrary to popular belief, doing nothing is actually doing something. If you have not had your plan reviewed for a few years, it is probably a good idea to do so, especially if you are married. Hopefully, we should know if Congress will pass any laws retroactive to January 1, 2010, by the summer. If the Estate Tax returns this year, executors will have nine months from date of death to file returns. This means that if there is anyone with an estate valued in excess of $3,500,000 who died on January 1, 2010 (assuming the exemption returns to the $3,500,000 level) the tax and the return would be due October 1, 2010. When there is an update, we will probably create another newsletter. Until then, feel free to call for an appointment.

Trivia Question

Many of you are aware that Bruce obtained his J.D., at the John Marshall School of Law and that Jay obtained his J.D., at Seattle University and his LL.M, at the John Marshall School of Law. But where did Bruce and Jay obtain their respective Bachelor Degrees?

	Bruce		Jay
A	Georgetown	*A*	Nebraska
B	Connecticut	*B*	Colorado
C	Columbia	*C*	Washington State
D	Rutgers	*D*	Arizona State
E	Rhode Island	*E*	Oregon

The first three clients to answer both questions correctly, will receive a $250 coupon toward their estate planning, or a $750 credit toward a creation of a Personal Asset Trust[SM] or an IRA Inheritance Trust®.

LAW OFFICES OF BRUCE KISELSTEIN, LTD.
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*"Trusts, Estates, Taxes and Asset Protection….
A Problem Solving Law Firm"*

Annual Newsletter
Important Estate Planning Information Enclosed

Those Pesky IRA Distribution Rules Visited Again

Let's review the IRA distribution rules again. Our pre 2005 Trust clients were advised to name their Trust as primary beneficiary if single and as the contingent beneficiary, if married. The regulations changed in 2004 regarding IRA distributions made to a Trust. If your Trust contains the new regulations (only our 2005 and subsequent Trusts do), it provides great new benefits for your Trust beneficiaries. Instead of the IRA's being paid out over the shorter remaining life expectancy of mom or dad, your children can "re-start the pay out clock" based on the life expectancy of the oldest Trust beneficiary. Note that a 55 year old has a 30 year payout schedule. This allows for minimizing income tax on the smaller withdrawal amounts while maximizing tax deferred growth over 30 years! There is a penalty however, if your Trust does not include the new IRA regulations. The penalty requires the Trust must payout all the IRA funds within five years after your death. There is no "stretch-out" of payments unless the Trust contains the new regulations. We have told you about this in the past newsletters, however, only 50 percent of our clients with Trusts written before 2005, have "fixed the problem." This leaves you with three choices if you have a Trust drafted before 2005: 1) Do nothing, leave your Trust as beneficiary of the IRA and your beneficiaries will suffer a five year taxable "blowout"; 2) Bypass the Trust by visiting your IRA custodian and requesting that your individual beneficiaries be named on the IRA, rather than the Trust. This will however, circumvent all of the estate planning provisions of your Trust; or 3) Resolve the problem with a reasonably priced amendment to your Trusts that will allow your beneficiaries to "stretch" the IRA payments out over the oldest Trust beneficiary's life, thereby reducing their income tax burden and maximizing their tax-deferred growth. The last option is the best option. Call us at 847-670-8200 to schedule an appointment to make this very important change.