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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 these Powers to manage healthcare and financial planning in the event of their disability and without the intervention of the Guardianship Court. 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 November 15, 2014, we will provide them with a 15% discount off our flat fee schedule of services.***

The Law Office of Bruce Kiselstein, Ltd.
NEWSLETTER

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

Recently Departed Hollywood Stars... Good and Bad Estate Plans

Robin Williams

The initial shock over this amazing comedian and actor's tragic death from an apparent suicide, is now giving way to discussions about his family, wealth, and legacy. He was survived by his third wife, Susan, and three adult children from his two prior marriages. While some reports indicate he was worth \$130 million two years ago, financial difficulties and debt have caused sources to estimate his net worth at less than \$50 million with a good deal of that being at least \$25 million in equity in his two substantial California homes. His estate affairs were, however, "in order" and his family will be well taken care of. It appears that he left at least two solid Trusts.

The little information that has been released about the Trusts indicate that he took advantage of sophisticated estate planning to protect his loved ones. The limited information also indicates that estate tax savings techniques were used and further, funds are to be distributed to his children in increments as they get older. The public will likely not learn much more about these Trusts because they safeguard Williams' privacy and that of his family. There will be no record in the Probate Court. His Trusts will reduce estate taxes, avoid public scrutiny of his assets and to whom they were distributed, as well as decreasing the likelihood of battles over estate distributions.

James Gandolfini

Many have also mourned the premature death of this fine actor. His estate plan, however, consisted of a brief and now public Will that may have not properly protected the assets he left to his family. This example illustrates the importance of having a well-drafted estate plan, using a Trust or Trusts.

Leading estate planning attorney, Bill Zabel, called Gandolfini's Will a "disaster". The late actor left 80% of his estate to his sisters and his nine month old daughter and only 20% to his wife. This resulted in an estate tax of approximately \$30 million on his \$70 million estate. Assets had to be sold to pay this tax bill. He failed to use a Trust that takes advantage of the spousal "marital deduction" which could have eliminated all estate taxes at his death. Many of our clients who have separate Trusts for husband and wife, have provisions in those Trusts to take advantage of this tax savings technique.

Further, since the Will provided that assets be distributed ***after*** all taxes were paid, his wife only receives 20% of \$40 million, instead of 20% of \$70 million. He did, however, have a \$7 million insurance policy in a Trust for his 13 year old son. His Will also left various cash gifts from \$50,000 to \$500,000 to nieces, a manager, and friends. Even if Gandolfini had intended his plan to end up this way, a major flaw is since it's a public record, we all know about it.

2014 Tax and Other Rates			
TAX OR EXEMPTION	**AMOUNT**	**CONTRIBUTION LIMITS**	**AMOUNT**
Annual Gift Exclusion	$5,340,000 per person	401(k), 403 (b), & 457 Plan Annual Contribution Limit	$17,500.00
Federal Estate Tax Exclusion Amount	$5,340,000 per person	401(k), 403(b), and 457 Plan Over age 50 "Catch-Up" Extra Contribution Limit	$5,500.00
Illinois Estate Tax Credit	$4,000,000 per person	Roth IRA/IRA Annual Contribution Limit (may be limited by higher income)	$5,500.00
Estate Tax Rate - Federal	40% on excess above $5,340,000	IRA & Roth IRA Over Age 50 Contribution Limit with "Catch-Up" (may be limited by higher income)	$6,500.00
Income Tax Rate on Irrevocable Trusts	39.6% on income over $12,150.00	Maximum Contribution to Health Savings Accounts (HSA's) (add $1000 if over age 55)	$3300 for singles and $6550 for families

Yes, You Can Amend, Modify, and Even Close Your Late Spouse's "B" Trust

A few years ago, Illinois passed a law ("Virtual Representation" 760 ILCS 5/16.1) that allows certain primary beneficiaries of an Irrevocable Trust, to amend, modify, and even close a Trust after the creator of that Trust has died. This allows us to make effective and desirable changes to a Trust that was previously "carved in stone". Many of our clients who are surviving spouses, have taken advantage of this technique. For those of you who are widowed and had created a two Trust (A/B Trust) system for the purpose of doubling the estate tax exemptions, that type of system may no longer be needed.

The Federal Estate Tax Exemption amount is now $5.34 million per person and the Illinois Estate tax exemption amount is now $4 million per person. Many of your Trusts were designed to double the exemption amount that was only $600,000 in the 90's or even at the start of this century, when the exemptions were only $1 million or $1.5 million. Yet, many surviving spouses are operating **two** Trusts, their own Trust and the " B Trust" or "Family Trust" of their deceased spouse. This requires two income tax returns each year, two sets of financial records, much more paper work, and additional accountant's fees. *The Virtual Representation law can make all of that go away in many cases!*

Also, many surviving spouses have told us that during the years since their spouse has died, they would like to make changes to their own Trust and they feel that if their spouse was still living, he or she would want to make the same changes. However, because the deceased spouse's Trust became irrevocable at the moment of death, those changes cannot be made to the late spouse's Trust by the surviving spouse. Further, children of parents who have both passed on, are now closing both of their parents' A/B Trusts and finding that the sale of appreciated stock and real estate in the Trust of the first spouse to die, is triggering substantial capital gain tax. (I'll explain why that happens on the next page.) "Virtual representation" allows the surviving spouse and the first level of beneficiaries (primary beneficiaries) to enter into a written agreement (as long as they **all** agree), thereby allowing them to "virtually" represent any subsequent level of beneficiaries (usually grandchildren and great grandchildren). If the rules of the new law are followed, this can be done without any Court approval. It is called a "Non-Judicial Settlement Agreement".

It allows the surviving spouse and primary beneficiaries to make substantial and beneficial changes:

1. Late spouse's Trust can actually be closed and all assets transferred to surviving spouse's Trust, eliminating the need for two tax returns each year and avoiding two sets of financial records;
2. Distribution and Successor Trustee changes can be made to both Trusts based upon changes in family situations, marriages, divorces, births, financial status, etc.; and
3. Capital gain taxes can be avoided by transferring appreciated assets to surviving spouse's Trust.

Many of our surviving spouse clients have taken advantage of this new law to simplify their lives and to make sure that their exact intent is carried our for both of the spouses' Trusts. If you believe an Agreement under "Virtual Representation" can help you, please call us at 847-670-8200.

We Still Want Your E-Mail Address!

Please e-mail us at kzkoenig@sbcglobal.net and give us your e-mail address. We would like to be able to send you tax and estate planning updates but it is difficult to do that more than once or twice per year because we must print and put postage on thousands of these newsletters. We can provide you information more often, more efficiently, and at much lower cost, if we have your **current** e-mail address. For those of you who don't use e-mail, don't worry. We will still send you our regular newsletter, however, we'll only be mailing it once per year.

Trust Clients Are Passing Away and Their Families Are Going Through Probate

Recently, we have had a handful of clients who have died with substantial assets owned in their own names and not in their Trust(s). Our newsletters have always included a reminder to make sure that your Trust owns your real estate, securities, bank accounts, and that your annuities, IRA's, retirement plans, and insurance policies, name your Trust as beneficiary. In 2010, Illinois law was changed to allow up to $100,000 to be owned in your name at death without going through Probate (Small Estate exemption). Even with this increase, we see numerous deceased clients who have bank account in excess of that amount or recently purchased real estate, not owned by their Trust. We also see retirement plans, annuities, and insurance policies name a beneficiary who has already died, rather than their Trust. This causes the need for a Probate case in the Circuit Court at a cost of many thousands of dollars to the heirs. Please be sure to review all of your significant assets to be sure they are owned by your Trust or name your Trust as beneficiary.

Capital Gains Tax When Children Sell Assets in Parents' Trusts

The Internal Revenue Code provides that when appreciated assets are included in a person's estate for calculating estate taxes, those assets receive an adjusted "cost basis" (commonly called a step-up) equal to the date of death value. Thus, when the survivor sells the appreciated asset shortly after the owner's death, there is no capital gain. However, many of our married clients have created a separate Trust for each spouse, to double the estate tax exemption amount. This technique works by passing the assets owned by the Trust of the first spouse to die, into a "tax-shelter" Trust created immediately following the first spouse's death (the Family or "B" Trust). Those assets are included in that person's estate for estate tax purposes and are now exempt from Federal estate tax up to $5.34 million $4 million for Illinois). The appreciated assets also receive a step-up in cost basis equal to the value of the assets on the first spouse's date of death. If surviving spouse immediately sold those appreciated assets owned by the late spouse's Trust, there would be no capital gain tax.

The surviving spouse, however, usually does not sell those assets and holds them for the rest of his/her life. During that time, those assets appreciate. When the second spouse dies, the children close down both parents' Trusts and liquidate all of the assets. The Trust assets owned in the spouse's Trust whoever is second to die, will receive a step-up in basis and there will be no capital gain tax on the sale of those assets. This is not true of the assets held in the Trust of the first spouse to die. They have been appreciating in value since first spouse's death and they do not receive a "second" step-up in cost basis when second spouse dies. They were purposely excluded from estate of the second to die, to avoid estate taxes. The capital gains rate was previously 10% to 15% versus an estate tax rate as high as 55%, so this process previously made sense. Today, with the Federal estate tax exemption at $5.34 million ($4 million for IL), and capital gains at 15% to 20%, it no longer makes sense for most (not all) of our clients.

So what can the two spouses do to fix this problem for their children? Should you discard your two Trust system, write one new "joint" Trust for both spouses, and retitle all assets? That would be costly, time consuming, and for those of you with estates close to or over $4 million, it would cause an Illinois estate tax. There is a solution. It is something called a "Power of Appointment". It is a complex part of the Tax code that gives surviving spouse a "power" over deceased spouse's Trust assets (after first spouse's death), allowing surviving spouse to select certain assets in the first spouse's Trust to be included in the second spouse's estate. Care must be taken so as not to have too many assets included in the second to die's estate or there will be an Illinois or Federal estate tax. The "power" allows second spouse to include enough assets to avoid capital gain tax. Sound confusing? When you mix capital gains tax with estate tax, it can be confusing, but we have developed clauses that can be inserted into both spouses' Trusts with amendments, to accomplish a "no capital gain tax" result. We have also developed a number of other clauses that incorporate recent Tax code changes from both Federal and State law that can save the children thousands of dollars. If you are interested in making a tax "update" to your Trusts to avoid unnecessary taxes, call 847-670-8200 today.

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"Trusts, Estates, Taxes, and Asset Protection….
A Problem Solving Law Firm"

Annual Newsletter
New Federal and State Tax Law Information Enclosed

Who Owns the Couple's Dog After They Broke Up? A Poem Wins!

Ownership of "Stig", a dog, was recently decided by the IL Appellate Court. Jen and Kent lived together but were not married. Jen bought Stig with her own funds and at Christmas, gave Stig to Kent and expressed her intent in a poem she had written. The couple broke up 15 months later and Kent moved out, taking Stig with him. Jennifer repeatedly asked Kent to return Stig to her. Kent agreed to "visitation", provided that Jen admit that Kent was Stig's legal owner. Jen sued Kent, claiming Stig as her dog.

Jen claimed that her donative intent was revoked, verbally and in writing when they broke up and that "delivery of the gift" never occurred. She claimed she never signed documents transferring ownership of Stig and his city registration, microchip ID, and vet insurance remained in her name and she paid for most of the costs of his care. She did admit that she gave up "exclusive" control of Stig but never gave up "complete" control.

Kent argued that he owned the dog and the gift occurred when Jen wrote the poem and that "delivery" of the gift, as required by law, occurred when Jen gave up exclusive control. Kent argued that he attempted to change the ownership registration and microchip ID but could not do without Jen's written consent or a court order. He further stated he bought vet insurance in his name after moving out. The trial Court ruled that Jen did not establish she was entitled to ownership. She appealed. The Appellate Court affirmed the trial court, stating that Jen did not establish her right to possession by sufficient evidence.

The Appellate Court stated that Kent had established the gift with clear, convincing evidence and had established donative intent with Jen's poem. There was no indication that Jen intended the gift to be based on continuation of the relationship and since there was no engagement, there was no gift conditioned on marriage.