

Briefings



from George's Desk

As many of you know, I have become an ardent supporter of estate planning, regardless of the size of your estate. It is my firm belief that whether you have a lot or a little, what you have is important to you (and to me). If it has taken all of your life to accomplish what you have, then IT IS IMPORTANT.

I believe estate planning has three major components: planning on the care of those dependent upon you, planning on your own care if and when you become incapable of caring for yourself, and planning for the transfer of your possessions to surviving individuals or organizations.

I cannot begin to cover this whole subject comprehensively in one article, but I think I can include the valuable basics.

In the first phase, I believe it includes three major areas. First, providing for the physical and emotional care of your dependents, particularly your minor children. You need to have written instructions of who you want to rear your minor age children if both parents are gone. Second, I think you need to have discussions with your children, nieces or nephews, or whomever will be there to help a surviving spouse emotionally and physically when the first spouse dies. In addition, you need to have a well-thought-out plan for your spouse's care if they are dependent on you. Thirdly, some of the documents you need, and provisions that you need to consider are a will and/or trust, and powers of attorney for both medical and property.

Your will is a good place to state who you want to be guardians of your minor dependents. It is also important to realize the person(s) most desirable to provide physical, emotional and spiritual care of those minors, might not be the best person(s) to handle the financial resources to support those minors and their caregivers.

The second phase is written instructions for your own care if and when you are unable to care for yourself. Start with powers of attorney for both your health and your property. It may likely be that those two assignments may be different people and/or institutions. You may want to include a living will that would give instructions regarding the level of life support you desire for yourself at those critical health circumstances in your life.

The third phase is the orderly transition of your possessions to your heirs: individuals and/or institutions. Many of you know that I am a proponent of using

long-lasting trusts, especially for human heirs. The recent news in Rockford of the courts awarding the victim's family \$15 million for the death of a child and the physical impairment of another child in a traffic accident underscores the importance of the legal protection of your assets left to heirs. Obviously, all of us who drive are subject to accidents, and if someone is seriously injured and your liability insurance coverage is exhausted, then the plaintiff can go after your assets. Professional malpractice claims and marital property disputes are two more reasons to consider protection of assets left to your heirs. The assurance that your wishes are realized in whom ultimately benefits from your assets whether it is your children, grand-children or other individuals or organizations can only be accomplished through the use of trusts.

In addition to the legal items I have just mentioned, I think there are several more ingredients of a testamentary trust (one established by your will) or a designated trust that you need to include. A few that I think are very important are 1) that a percentage of the value of the financial assets in trust should be paid out to the beneficiaries, not the "net income"; 2) An independent entity (such as a trust company) is named as trustee of your trust, providing the legal protection you need; 3) the responsibility of managing the investment of your assets should be assigned to an independent investment advisory firm instead of the trustee, since my experience with trust companies' investment management has not been very good; and 4) your trust should allow the adult beneficiaries (or someone responsible for that beneficiary) to change the trustee and/or the investment advisor without showing cause.

There are a number of other items that need to be considered in these documents, but I have tried to enumerate some of the more important ones.

Though we are not a law firm, and do not prepare legal documents, we have many years of experience observing how other peoples' affairs have been handled. I believe this experience enables us to assist you by making you aware of the many considerations you need to think about in your estate plan.

If you are a senior, you will understand this one. If you deal with seniors, this should help you understand them a little better. And, if you are not a senior yet, God willing, someday you will be...

The \$2.99 Special

We went to breakfast at a restaurant where the "seniors' special" was two eggs, bacon, hash browns and toast for \$2.99. "Sounds good", my wife said, "but I don't want the eggs." "Then I will have to charge you three dollars and forty-nine cents because you are ordering a la carte," the waitress warned her. "You mean I have to pay for not taking the eggs?" my wife asked incredulously. "YES!!" stated the waitress. "I will take the special then," my wife said. "How do you want your eggs?" the waitress asked. "Raw and in the shell," my wife replied. She took the two eggs home and baked a cake.

DON'T MESS WITH SENIORS!!!
We've been around the block more than once!

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To Convert or Not to Convert

As many of you are aware, the law provides that in the year 2010 there are no income limitations on who can convert IRA monies to a Roth IRA.

There is a growing amount of commentary in the financial media about this subject, but I do not believe the answer is as simple as some are suggesting.

In my view, there are five major advantages of conversion:

1. It reduces the amount of the required minimum distribution (now at age 70 ½ or older) in the future.
2. All of the earnings of the money in the Roth account in the future are not taxable when withdrawn, whether by the participant or the non-spousal beneficiaries.
3. It is almost a certainty that income tax rates will increase in the future, especially for those in the higher income levels. (I could write a lot more about that subject, but I will refrain.)
4. For those sizeable estates it would most likely reduce the estate taxes their heirs would pay.
5. The taxes on the amount converted are spread over two years.

I do believe there are reasons not to convert, or to convert relatively small amounts:

1. If you want or need as much income as you can have, by converting and paying the taxes now, you lose the earnings on the taxes you have paid in advance.
2. The current administration and congressional leaders have promised not to increase taxes or tax rates on the lower income taxpayers; presently it would include people making under \$100,000 per year. (I know there have been various amounts mentioned, but this is the lowest I have heard.)
3. If the people who will inherit your IRA funds are in a lower tax bracket than you are, they would benefit from your not converting.
4. If you are planning to leave some or all of your IRA money

to charities then the charity would pay no tax.

5. Prior to 1983 we were promised by the federal government that we would not pay taxes on our Social Security benefits, but many of us now do. Currently, if you make more than \$30,000 to \$40,000 per year including a portion of your Social Security, you pay taxes on part of that social security income. Personally, I do not consider \$30,000 to \$40,000 in annual income to be high. Given the enormous federal debt and budget deficits as far as anyone can calculate, does anyone believe that a future Congress will not start taxing the earnings on Roth IRAs, especially for those in “higher incomes”?

Yes, I know some of my biases are showing, but I believe you cannot trust politicians in either party when it comes to taxes. The whole point of this discussion is to show that I do not think the idea of conversion is a “no-brainer” decision.

As always, we will be happy to assist you in determining whether you should or should not convert to a Roth IRA, so please feel free to ask.

**Client Appreciation Day is
Saturday, April 10, 2010**

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