Wiseman Bray PLLC

Attorneys at Law

Estate Planning Newsletter

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INSIDE THIS ISSUE:

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Has Estate Tax Reform Been Forgotten?

As the battle over health care reform rages in Washington, federal estate tax repeal or reform seems to have gotten lost in the trenches. So the question becomes, "What happens if nothing happens?" The current law in place is the Economic Growth and Tax Relief Reconciliation Act (known as "EGTRRA"), which was signed into law in 2001. Under this legislation, the federal estate tax exemption amount would increase on a schedule until the end of 2009, there would be no estate tax in 2010 and then the exemption amount would return to $1.0 million at the beginning of 2011.

At the time the legislation was passed, likely no one ever thought we would reach the end of 2009 without changed legislation or even a permanent repeal of the estate tax. However, as you know, health care debate has occupied Congress for the vast majority of this year. Moreover, current economic conditions and the expense of any sweeping health care reform have brought an end to any serious discussions of a permanent estate tax repeal.

With all of that said, what happens if nothing happens? If absolutely nothing happens by the end of this year, beginning January 1, 2010, there will be no federal estate tax. In Tennessee, we will still have the $1.0 million exemption, and any estates larger than that will face state inheritance tax liability at rates ranging from 5.5% to 9.5%. But for those people out there with larger estates, the elimination of the federal estate tax could result in potentially huge estate tax savings, as the federal rates are close to 45%.

However, the consensus among those with ties in Washington and those in the estate planning community is that Congress will likely implement a "patch" or "freeze" for 2010 at the end of this year and then address the estate tax issue more comprehensively next year. This would likely mean that the estate tax rules and exemption amounts would remain the same for 2010 as they are this year. A patch would keep the current $3.5 million federal exemption amount in place for 2010. The patch would also likely not address any of the issues ancillary to estate tax reform, which include portability of the exemption amount between spouses, unification of the gift and estate tax systems and indexing exemption amounts and tax rates for inflation.

As far as what happens in 2010 with permanent estate tax reform, no one knows at this point. Our summer 2008 newsletter contained a discussion of the plans proposed by the then presidential candidates regarding estate tax reform. Given the federal government's need to raise revenues, especially against the backdrop of the potential costs of health care reform, President

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Obama's proposed estate tax plan may no longer be realistic or probable. In the meantime, we will continue to watch and wait.

With all of these variables in place, we are working extremely hard to stay abreast of any and all changes in the law and work with those of you who may face very significant differences in terms of tax liability depending on what happens with the estate tax on a more permanent basis.

Therefore, it is very important during this time that you review your current plan and make any changes necessary to keep up with changes in the law.

If you have questions or would like to discuss these issues and their impact on your estate plan in more detail, please contact our office.

Roth IRA Conversion—Is it right for you?

Individual retirement accounts (IRAs) have historically been a tax-favored vehicle for retirement savings. In 1997, Congress expanded their tax-favored status by creating the Roth IRA.

If certain conditions are met, individuals can withdraw money from a Roth IRA without incurring the penalties and income tax consequences associated with retirement account withdrawals. Roth IRAs are also not subject to the required minimum distribution (RMD) rules applicable to other retirement accounts.

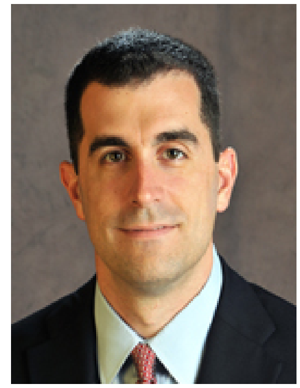
In order to take advantage of the Roth IRA or a conversion from a traditional IRA to a Roth IRA, traditionally individuals whose modified adjusted gross income exceeded $100,000 were not eligible to contribute to a Roth IRA or to convert from a traditional IRA to a Roth IRA.

Beginning in 2010 and for tax years thereafter, the income limitations have been dropped so anyone can convert from a traditional IRA to a Roth IRA regardless of income. Additionally, individuals who convert in 2010 can spread out the income generated from the conversion over two tax years, which means half of the income could be reported in 2011 and the remaining half of the income in 2012, rather than incurring the entire income amount and paying the corresponding income tax in 2010.

The combination of the opportunity for all individuals to convert regardless of income and the ability to spread out the income tax over two tax years may be a great opportunity for many. However, it is important to discuss conversion with your tax advisor and financial advisor to see if this is an option that can provide benefit to your tax and economic circumstances.

Happy Holidays!

from the Attorneys and Staff of Wiseman Bray PLLC



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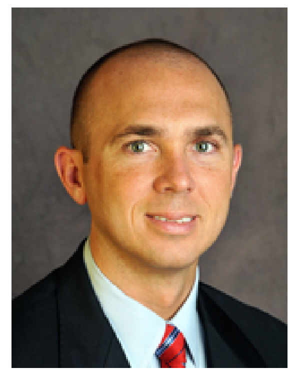

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