IT'S TIME TO REVIEW YOUR ESTATE PLAN…AGAIN

By: Gerald M. Morello, Jr., Esq.

"Each person, regardless of age, net worth, employment or marital status should have a comprehensive estate plan in place."

– Gerald M. Morello, Jr., Esq.

2012 TAX ACT

The 2012 Tax Act provides a great opportunity to simplify your estate planning and to better provide for the future of your children and grandchildren. The following is a brief list of estate planning issues that should be part of any discussion.

REVIEW OF ESTATE PLAN

The beginning of the year is an ideal time to review your estate plan. Time flies, and your estate plan needs to keep current.

First, think about the key appointees within your documents. Are you still comfortable with who you've selected to handle your financial and medical affairs if you pass away, or become incapacitated? Second, are your beneficiaries up to date? Third, does your trust provide age (or other) restrictions on your beneficiaries and what is most appropriate now based on your beneficiaries' current circumstances? Lastly, if you do not have a comprehensive estate plan in place, now is the time to develop one.

Here are some additional recommendations on what to consider when updating your estate plan:

- Prepare or update a Revocable Living Trust to avoid probate court, eliminate government interference, maintain privacy, simplify administration and protect your family's estate.
- Review ownership and beneficiary designation to make certain they are owned or "funded" in the name of your Trust. Do not put a child on the deed to your home, stocks or mutual funds due to adverse tax consequences.
- Roll-over 401k plan monies after changing jobs, or at retirement, to an IRA account.
- Review selection of Executor, Trustee, Guardians for minor children, and Financial and Medical Advocate.
- Determine whether your estate plan contemplates the Tax Act of 2012 and the IRA rules changes.
- Review your total net worth, and determine whether your estate plan is appropriate.
- Determine whether you have acquired real estate since your Trust was developed and whether ownership of that real estate is appropriate.
- Determine whether your heirs' circumstances have changed, which might affect your planning, such as a disability, births, deaths, marriage or divorce.
- Consider provisions in your Trust to provide monies for younger heirs for education and health care, and an age requirement to receive the inheritance, such as age 25.

SIMPLIFIED PLANNING FOR MARRIED COUPLES

Historically, a married couple needed to establish two separate AB type Trusts to protect both the husband's, as well as the wife's, exemptions against the Federal Estate Tax. For a married couple, if you did not "protect it," you would "lose it." Now, with proper planning, most married couples can protect both the spouse's exemptions against the Federal Estate Tax ($5.43 million each for a total of $10.68 million) by doing some very simple, straight-forward planning. This simplified approach will not always be appropriate planning; it's based on many factors the clients should be made aware of.

IRA CONDUIT TRUST

IRA rules are complex, yet critically important in the estate planning arena. Most clients have retirement accounts, and desire to continue the power of tax deferral for the beneficiary after one's death. A properly designed Revocable Living Trust that has IRA Conduit Trust provisions will ensure continued tax deferral on these accounts for the beneficiaries.

LADY BIRD DEEDS

Our offices utilize Lady Bird Deeds to protect a primary residence during a nursing home stay from the Medicaid spend-down rules, while ensuring that, at death, the home ultimately is transferred to the Trust in order to avoid the Michigan Estate Recovery Act. This Act provides the State of Michigan with the ability to be reimbursed for Medicaid costs by extracting the reimbursement from the sale of the primary residence after the taxpayer has passed away.

MAKE INFORMED DECISIONS

Your estate plan should be reviewed on a regular basis with an experienced estate planning attorney to ensure your important legal affairs are in good order. Remember that there are many issues to address, so make sure you are fully informed of what is right for you.

For further information or to schedule an appointment, please contact Morello Law Group, P.C. at (734) 281-6464 or morello@morellolawgroup.com.