

ESTATE PLANNING NEWS

WINTER 2014

ESTATE AND GIFT TAX REPORT

Beginning in January 2014, the federal estate tax exemption is \$5,340,000 per person (\$10,680,000 per couple) and the top estate tax rate is 40%. The lifetime gift tax exemption and generation skipping transfer tax exemption is also \$5,340,000 per person.

This year the annual gift tax exclusion amount is \$14,000 per person. This means that each person can give up to \$14,000 gift tax free, or \$28,000 per married couple, to any number of individuals. Gifts of this amount do not require a gift tax return and do not reduce your \$5,340,000 lifetime gift tax exemption amount.

SHOULD YOU SIMPLIFY YOUR ESTATE PLAN?

Two important components of the federal estate tax law became “permanent” with the passage of the American Taxpayer Relief Act of 2012. First, the estate tax exemption was permanently set at \$5,000,000 per person (\$10,000,000 per couple), as adjusted for inflation. Second, “portability” of a deceased spouse’s unused exemption became permanent. Portability allows a married couple to preserve each person’s unused federal estate tax exemption by timely filing a federal estate tax return.

In light of the high exemption and portability option, some clients should consider simplifying their estate plans. For example, we have clients who came to see us in 2001 when the estate tax exemption amount was only \$675,000 per person (\$1,350,000 per couple). For estate tax planning purposes, it was necessary to include a family trust (also called a credit shelter trust) in wills so that both spouse’s exemptions up to \$1,350,000 would be sheltered from estate tax at the second spouse’s death.

With this kind of tax-planned will, assets of the deceased spouse up to the exemption amount (for example, \$675,000 in 2001) would be distributed to a family trust. Typically, at the death of the second spouse, the remaining assets in the family trust would pass to the couple’s children free of estate tax. The surviving spouse would have his or her own exemption amount available at his or her death. Therefore, the couple could pass up to \$1,350,000 free of estate tax in 2001.

Now that the exemption amount is over \$5,000,000 per person (over \$10,000,000 per couple), couples with smaller estates may wish to rely on the portability option or the larger single exemption itself rather than the creation of the family trust. In this case, an estate plan can be simplified so that at the death of the first spouse, the deceased spouse’s assets are distributed to the surviving spouse outright rather than in a family trust.

Before deciding to eliminate a family trust, a couple should review the non-tax advantages of a family trust. A family trust can (1) ensure that your assets pass to your children even if a spouse remarries, (2) protect trust assets from the surviving spouse’s creditors, and (3) avoid the cost of filing a federal estate tax return to elect portability.

If you are interested in learning more about the advantages and disadvantages of simplifying your estate plan, please contact us.

Goddard & Goddard, P.C. partners with clients on estate planning and estate administration matters, including related issues in real estate, oil and gas, business and tax law, and charitable planning.

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FIRM NEWS

Goddard & Goddard, P.C. is proud to announce that Miranda K. Hawkins has become a partner of the firm.

Please view our new website at www.goddardandgoddard.com.

In 2013, Susan B. Goddard was named to the Colorado Super Lawyers list and Miranda K. Hawkins was named to the Colorado Rising Stars list in 5280 magazine.

ColoradoBiz magazine ranked Goddard & Goddard, P.C. as one of the top 100 woman-owned businesses in Colorado in 2013.

MEDICARE TAX FOR TRUSTS, ESTATES AND HIGH INCOME TAXPAYERS

The 3.8% Medicare tax is a tax on the net investment income of trusts, estates, and high income taxpayers. Generally, net investment income includes dividends, interest, capital gains, and rental income. For 2014, trust and estates generally are subject to the Medicare tax on income over \$12,150 unless the income is distributed. The trust and estate threshold is very low compared to the \$250,000 threshold for married couples filing jointly.