Estate Planning Client Advisory

SUMMER 2011

As a valued client of this firm, we are pleased to provide you our summer Estate Planning Client Advisory as a courtesy to keep you abreast of important tax and estate planning issues and opportunities.

The Estate Tax – Its Uncertain Future Continues: As many know, last December President Obama signed the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010. Although the 2010 Act implemented numerous tax changes, most significant in our view was its 2-year "patch" to the estate and gift tax regime.

Specifically, the 2010 Act set the estate and gift tax exemptions at $5 million apiece and the top tax rate at 35%. Unfortunately, the new exemptions and rate expire on January 1, 2013 – with the exemptions scheduled to revert to the $1 million level unless Congress takes action before then.

As of this writing, there is sparse information and discussion in the tax professional community regarding the future of the estate tax. Our belief is that this is because there are a number of particularly urgent political issues on the front-burner, such as the recent battle over the national debt, which have had the attention of Congress.

However, a possible insight into post-2012 estate tax law is found in the Treasury Department's fiscal year 2012 Revenue Proposals issued earlier this year. Although Treasury's Revenue Proposals are more akin to a "wish-list" rather than something set in stone, the Proposals assume that the 2009 estate and gift tax levels (with the $3.5 million exemption and the 45% tax rate) will be made permanent when the "patch" in the 2010 Act expires at the end of 2012.

Although the exemption amounts and tax rates in the Revenue Proposals are not as generous as many may hope, we nevertheless see this as a positive sign that the administration and Democratic lawmakers may be supportive of legislation to avoid the scheduled return of the $1 million exemption in 2013.

And even though the 2010 Act does not offer long-term tax planning certainty, for individuals desirous of pro-active tax reduction planning, the present $5 million exemption may present a closing window of time in which to transfer significant wealth to the next generation free of estate and gift tax consequences.

If you would like to discuss available tax savings strategies, please feel free to contact us.

Florida "Yankee Death Tax" Rejected By State Legislature: During this spring's legislative session in Tallahassee, several lawmakers sought to enact a Bill creating an estate tax system applicable to only non-residents of Florida. Not surprisingly, the Bill was dubbed the "Yankee Death Tax" by its many detractors. At present, a Florida residency (or non-residency) status or owning Florida property has no effect on one's death tax liability. However, the principal effect of the Yankee Death Tax Bill would have been to impose a new death tax on the Florida real estate holdings and homes of non-residents.

Fortunately, and certainly in alignment with Florida's long-standing status as a tax haven, the Yankee Death Tax Bill did not even receive enough votes to get out of committee.

Although the effort to enact the Yankee Death Tax earlier this year was not welcomed news to most, we view this attempt by a small number of legislators to merely be an anomalous event and unlikely to gain significant support any time in the foreseeable future.

The Reluctant 104 Year-Old Heiress – A Posthumous Lesson On Ill-Suited Estate Planning: On May 24th of this year, the little known and reclusive heiress, Huguette Clark, died at age 104 at a New York hospital.

This 1930 photo, taken when Ms. Clark traveled to Reno to obtain a divorce, is the last known photo taken of the heiress.

Ms. Clark's story is tragic, yet it is very instructive as a reminder that great care and thought must be embraced when planning for the inheritances that eventually will be passed to one's heirs.

Ms. Clark's father was William Clark, one of the great copper kings of the 19th century. Although Mr. Clark had many business achievements, he perhaps is best known for putting Las Vegas "on the map" when he established it as a primary stop for one of his railroads in the late 1800s.

From the start, Ms. Clark had all the trappings of wealth at her disposal. Born in Paris in 1906 during a family trip, Ms. Clark was Mr. Clark's sixth child. At the time of Ms. Clark's birth, Mr. Clark was 67 years old and then a member of the U.S. Senate.

As might be expected for a child of her social position, Ms. Clark resided in her family's 121 room mansion on New York's Fifth Avenue and was educated at Miss Spence's School for Girls in New York.

When Mr. Clark died in 1925, he left 19 year-old Huguette an inheritance estimated at $9 million – a tremendous sum in those days.

In keeping with her standing, at age 22 Ms. Clark married William Gower – a Princeton man from a socially prominent family – but much less wealthy.

However, despite her vast wealth and prominent marriage, Ms. Clark's life began to unravel just two years later. And not surprisingly, her "unraveling" became common fodder for the gossip columnists of those days.

In 1930, Ms. Clark "scandalized" Reno, Nevada, which was then a divorce mill for the wealthy. But her impending divorce was not the primary scandal. Rather, it was the opulent and seemingly cavalier manner in which Ms. Clark pursued the divorce. She traveled from New York to Reno with her entourage of assistants and servants and rented an entire floor of a plush Reno hotel for the duration of the divorce proceeding.

After the divorce Ms. Clark dropped out of the public eye until her death. She retreated to her 42 room house across from Central Park, residing there in virtual seclusion for the next 60 years and pursuing her passion for antique dolls – but rarely seeing visitors.

In 1991, notwithstanding her overall good health, Ms. Clark inexplicably took up residence in a New York City hospital. And despite owning California and Connecticut mansions valued at a combined $125 million – Ms. Clark resided at the hospital for the next 20 years – until the day of her death.

At the time of her death, Ms. Clark had a fortune estimated at $500 million, but had no children or descendants. Her 2004 Will left approximately $40 million to her nurse, and the bulk of her estate to a foundation for the arts.

Also, before her death Ms. Clark made a very telling comment on her view of wealth – stating that it is a "menace to happiness."

Ms Clark's sad story serves as a sobering reminder that great thought and planning must be put into one's estate plan – even if one's estate is relatively modest. For someone must always inherit the estate – and thus the heirs will experience the benefits and difficulties that money can bring.

But as is clear from Ms. Clark's case, there should be no "one size fits all" estate plan. Rather, it must be suitably tailored to each heir's situation and temperament – particularly when an heir is young or has not proven to be responsible with money.

In our experience, it is likely that much of the unfortunate part of Ms. Clark's life could have been averted with proper estate planning by her father. In Ms. Clark's case, a well-drawn trust for her, with proper checks and balances, and appropriate incentive provisions, very well may have motivated her to become a productive member of society rather than enabling her to live her 104 year life as she did.

A Word About Insuring Wine Collections: Wine enthusiasts often go to great lengths to establish valuable and unique collections. However, most wine collectors do not have sufficient insurance to protect against a loss of such "liquid" assets.

Perhaps surprisingly, most homeowner policies exclude wine and other such "perishables" from coverage. For this reason, and due to the significant value of many collections, it may be advisable to insure one's wine collection with a private wine policy.

Wine policies customarily fall into one of two categories.

The first is the blanket policy. This type of policy provides a maximum coverage amount and is preferable for those who drink from their collections and make replacements. The blanket policy permits the collector to add and remove bottles without notifying the insurance carrier.

The second type of policy is the scheduled policy. A scheduled policy is best suited for collectors who intend to hold their collections intact. The policy is "scheduled" in that each bottle or case is catalogued with the insurance company and insured individually.

We encourage any readers who are wine collectors to contact their insurance agents to determine whether a private wine policy is advisable.

Recovering Lost Funds: For many folks who have had a variety of business endeavors or have lived in numerous locations before settling in Florida, it is not uncommon that "old" accounts drifted to the wayside. However, to address this concern, the National Association of Unclaimed Property Administrators has endorsed the website *missingmoney.com*.

"Missingmoney" is a free, secure website that can identify unclaimed bank accounts, insurance policies, stocks, bonds and safety deposit box contents.

To utilize the website all that is required is to enter your name and the states in which you have resided or conducted business. For married ladies it is recommended that the maiden name also be used in the search.

Words to Ponder: Although we seem to be in strange times politically and economically, and perhaps personally –

"This time, like all times, is a very good one, if we but know what to do with it."

Ralph Waldo Emerson (1803 - 1882)

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