

Estate Planning Matters

Kramer Radin, LLP
Law Firm

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Estate Tax Update

We have been closely following events in Washington, D.C. with particular interest in the Estate Tax situation. And, although Congress has not put much emphasis on tax reform, sooner or later the matter will need to be addressed.



As the situation stands right now, the Estate Tax in 2010 is \$-0-. But, this tax savings is partially offset by a change in establishing a new cost basis. Instead of receiving a step up in basis as of the date of the original owner's death, assets now pass to heirs using their **original cost basis**. The heirs carry the decedent's cost basis, after specified exemptions, which could lead to a fairly hefty capital gain taxes for them.

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The legal services of Kramer Radin, LLP include estate planning, trusts, probate and trust administration related tax matters, real estate employment law, Medi-Cal planning litigation and dispute resolution.

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For example, Mr. Smith built his home in 1960 for \$20,000. At the time of his death in 2010, he still owned the home but with a current market value of \$1,500,000. In the past the date-of-death valuation would be the cost basis for the heirs when they sold the property. But, under the 2010 tax code as it stands today, after the first \$1.3 million of an estate, with an additional \$3 million exclusion available to the spouse of the decedent, the capital gains tax is assessed. After the \$1.3 million that is exempt, \$180,000 is subject to federal and state capital gain taxes. These taxes at a combined 25% rate yield a \$45,000 tax vs \$-0- under the 2009 estate tax rules.

Also under the tax code as it stands today, in 2011 the estate tax will return to the \$1 million exemption (down from \$3,500,000 in 2009) with a top rate of 60% (up from a maximum of 45% in 2009).

Clearly something must be resolved so there is fairness and sanity to the entire tax situation. It is imperative there be sufficient courage on the part of Congress for real reform and not just "rearranging the deck chairs on the Titanic"

Incidentally, according to the Cato Institute, the size of the US tax code, tax regulations and various IRS rulings is 71,684 pages, more than quadruple the 16,500 pages that this data consisted of in 1969.

FDIC – Are My Deposits Covered?**2010 Update**

During the past several months, a number of our clients have called us for information regarding Federal Deposit Insurance Corporation (FDIC) coverage limits for their bank accounts. Federal law expressly limits the amount of insurance the FDIC can pay to depositors and no representation made by any person can increase that coverage.

The FDIC is an independent agency of the United States government. It protects depositors against the

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loss of their insured deposits if an FDIC-insured bank or savings association fails. Currently, each account ownership is insured up to \$100,000

except for some retirement accounts that by federal law are insured for up to \$250,000 and, until December 31, 2010, there remains unlimited coverage for non-interest bearing checking accounts.

The rules are somewhat complex, however, and vary by the ownership of accounts and, if applicable, the number of named beneficiaries as well as the relationship between the account owner(s) and the beneficiaries. There are very specific situations, for example, that will allow accounts titled in the name of a Revocable Trust to have several times more than \$100,000 total coverage.

A very informative Web site is <http://www.fdic.gov/deposit/index.html> where the rules are explained and examples are given. There is also an insurance calculator that can help guide your financial planning.

For case specific information regarding insurance coverage you may call 1-877-ASKFDIC.

Cyber Assets**Planning for On-line Accounts**

When we prepare a revocable living trust for our clients, we include Schedules A and B showing bank accounts, real estate, brokerage accounts, retirement accounts, life insurance policies, etc. Although the accounts may change from time to time, when it is time for the successor trustee to take over, there is usually a paper trail for that person to follow.

That is usually not the case with online accounts. It is important, therefore, that a trail be established by anyone with an online account. Many people have, among others, Facebook, Twitter, blogs and/or photo storage accounts with content that they want to pass on to their loved ones as much as they want the antique tool collection or Grandma's brooch to be passed on.

This can be accomplished without compromising one's privacy.

There are Web-based services that will forward stored user names and passwords after you die to a person you have specified to enable access, management and closure of the account(s). The cost for these services ranges from less than \$10 per year to several hundred dollars for a lifetime membership.

There is also the old fashioned, low-tech safe deposit box in which to place the pertinent information. As long as the successor trustee or executor has access to the box, this works very well. Cost varies from one institution to another.

I plan to live forever. So far, so good!

- Anonymous



What Do You Think?

Several times each year we send out our Estate Planning Matters newsletter. In an effort to meet your needs and provide useful information, we would appreciate your responses to the following:

1. The subject matter is of interest to me.
 - (A) Always
 - (B) Frequently
 - (C) Sometimes
 - (D) Rarely

2. I am most interested in articles related to:
 - (A) Estate Planning
 - (B) Tax
 - (C) Finance
 - (D) Retirement
 - (E) Health

3. I would like more information about

Please send your responses to:
responses@kramerradin.com.

Thank you.

**Tai Chi**

Tai chi, also called “qi gong” or “tai chi chuan,” originated in China as a martial art. Participants engage in slow, flowing movements while breathing deeply assuming postures that are akin to yoga. The goal is to achieve a balance between focus and relaxation.

Recent studies by several universities and health institutions have found more seniors taking tai chi classes to improve their balance, coordination, posture, mental outlook and overall well-being.

Dr. Chenchen Wang, a physician at Tufts-New England Medical Center, analyzed 50 tai chi studies from around the world. She found long-term tai chi promoted balance control, flexibility and cardiovascular fitness and reduced risk of falls in the elderly and lessened stress, pain and anxiety in healthy participants. Further, she and her colleagues confirmed that osteoarthritis patients engaged in regular tai chi sessions had improved physical function and decreased pain.

Working with a well-trained instructor is generally the best way to begin. There are a number of schools on the Peninsula and in the South Bay from which to choose.

Before beginning any exercise program, always consult your health care professional.

Reminder

Your estate plan should be reviewed with us every 3 years or whenever any of the following occurs:

- Change in your marital status
- Birth, adoption or death of a child
- Birth, adoption or death of a grandchild
- Marriage or divorce of a child
- Death of a parent
- Significant increase or decrease in wealth
- Receipt of substantial inheritance or gift
- Change in your relationship with or death of the individual you have named as Executor, Successor Trustee, Guardian, or Agent under the Powers of Attorney
- Change in state law
- Change in federal tax laws

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