

Gustafson Law Office

Newsletter

Winter/Spring 2013

www.gustafsonlegal.com

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Greetings!

March has arrived! With the heavy wet snows, Spring Break vacation plans to locales where flowers are in bloom, also comes a Winter/Spring edition of the Gustafson Law Office newsletter. And remember, you can follow developments on illness, death, and taxes for the middle class on my blog, gustafsonlegal.blogspot.com.

The Federal Estate Tax

January 2, 2013, was a significant day in the practice of an estate planning attorney. On that day, the President signed the American Taxpayer Relief Act of 2012 (ATA), delivering permanence to the issue of the federal estate tax. Keeping with tradition, the ATA is dense and complicated; however, highlights include:

- An exemption level set at \$5 million per individual. If an estate exceeds the exemption level, the amount over will be taxed at 40%;
- Exemption levels are now indexed for inflation. This means **the exemption level for 2013 is \$5.25 million**; and
- Spousal portability was made permanent, giving the surviving spouse ability to address tax planning within 9 months of the death.

Gift Taxes in 2013

In 2013, the Gift Tax limit has been set by the IRS at \$14,000. That means any one person can give another person up to \$14,000 during the year and not have to report the gift to the IRS. Note, married couples have an unlimited gifting amount.

When gifting, keep in mind that the IRS views a gift as being made based on the year a check is cashed, not the date a check was written or mailed. Because a person can stop payment on a check up until it is cashed, the IRS views the gift as completed in the year the check was cashed. Here is an example of how this could be problematic. Virgil writes a check to Sharon every year for the winter holidays. If a check he wrote on December 24, 2011 was cashed on January 2, 2012, and then the check he wrote on December 24, 2012 was cashed on December 30, 2012, and both checks totaled more than \$14,000 – he will have exceeded the gift tax in the eyes of the IRS because both checks were cashed in 2012.

IRAs and Charitable Donations

Another feature of the ATA is an extension of the Charitable IRA donation. People aged 70 ½ or older can make a direct transfer from an IRA to a charity, up to \$100,000. These direct transfers count as required minimum distributions and avoid the income tax.

A Last Income Tax Filing

Are you handling the final affairs of a loved one? If so, do not overlook your obligation to file a final tax return. An income tax form is due for the individual if the deceased had earned income between January 1st and his or her date of death. In addition, the estate itself may need to file an income tax return if the estate earned income (i.e. dividends, sale of stock, etc.) from the date of death to December 31, 2012. When in doubt, check with a C.P.A. It costs less to get a little advice than to clean up a mess.

What Happens to Social Media Upon Death?

Are you one of the 1 Billion Facebook users? How about LinkedIn, Flickr, or Gmail? Death and digital assets is fast becoming a hot button issue on the national stage. Why? When a person dies his or her digital assets are usually not covered under a will, but governed by a service agreement they entered into with the company. Several states have or are in the process of writing laws placing digital assets into a person's probate estate, meaning the Personal Representative would have access to the accounts. It is too early to tell if the courts will view these laws as violations of federal law (written long before social media took off) or let them stand. Developments on this issue will also be posted on my blog (which is a digital asset).

Saying Goodbye to the Charitable Deduction?

One of the many ideas floating around Washington, D.C. in their efforts to broaden the tax base is a change to the 96-year-old charitable deduction. Recent proposed changes include:

- Capping the amount of allowable deductions;
- Limiting the tax rate at which the deduction can be taken; and
- Converting it from a deduction to a credit.

If enacted, this change would only impact those who itemized their income taxes, taking deductions, which is roughly one-third of Americans. However, the impact may be more heavily felt by non-profits. In 2011, 73% of all donations to charities were made by individuals. Given my practice area and interest in charitable giving, I will be monitoring this issue and posting updates on my legal blog. Stay tuned.

National Money Smart Week

April 20th – 27th marks National Money Smart Week, bringing with it a plethora of free seminars. Designed as a public awareness campaign, the event brings together financial professionals, schools, non-profits, libraries, and government offices. Details can be found at www.moneysmartweek.org. This is a wonderful event, and I am thrilled to have been invited to participate again this year. I will be speaking for a short session on Saturday, April 20th, and then a longer 2-hour session on Wednesday, April 24th.

Mailing List

To update our mailing list with address and name changes, or to be removed, please contact me via email or phone.

Best wishes,

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