A Newsletter from the Law Offices of Boyd & Boyd, P.C.

NEW LAWS ~ NEW CHANGES

Estate Tax Repeal: Means "No Worries," Right?? - Wrong !!

You will recall that your estate planning documents divide the estate of the first spouse to die into two broad portions. One portion is equal to the deceased spouse's unused estate tax exemption amount. The other portion is equal to what is called the "optimum" marital deduction. Neither portion will be subject to estate tax when the first spouse dies even if there is an estate tax due—the estate tax exemption portion (sometimes called the "credit shelter" or "bypass" portion) escapes tax because it takes advantage of the estate tax exemption of the spouse dying first. The estate tax exemption portion also escapes estate taxation when the surviving spouse dies. The marital deduction portion is not subject to estate tax when the first of you passes on, but is subject to estate tax when the surviving spouse dies. This is the common way most married couples have disposed of their wealth for many years. We continue to believe that is appropriate for you. However, a change in the tax law that has just become effective, and will last *only* for this year suggests that it may be appropriate for you to come in and visit us to see if your documents should be modified. This is especially true for older plans.

This year (2010) there will be no Federal estate tax (although some states will retain their independent estate tax systems). There may be uncertainty how the provisions of your estate planning documents will be interpreted if there is no estate tax. This is because several provisions of your documents are phrased in terms of tax concepts, such as the estate tax exemption amount and marital deduction. Because those tax concepts are not in the law this year, there may be some question as to what your documents mean and how your property is disposed of. That in turn may cause tax questions to arise.

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Upcoming Seminars

Will Your Living Trust Work Right Or Break Down When It's Tested?

Wequassett Inn **Chatham, MA** **Tuesday May 25, 2010** 10:00 AM - 11:30 AM **Tuesday June 15, 2010** 10:00 AM - 11:30 AM	**Ocean Edge Resort** **Brewster, MA** **Tuesday June 1, 2010** 2:00 PM - 3:30 PM **Tuesday June 15, 2010** 2:00 PM - 3:30 PM
Courtyard By Marriot **Hyannis, MA** **Saturday May 29, 2010** 10:00 AM - 11:30 AM	**Courtyard By Marriot** **Hyannis, MA** **Saturday June 19, 2010** 10:00 AM - 11:30 AM
Coonamessett Inn **Falmouth, MA** **Tuesday June 1, 2010** 10:00 AM - 11:30 AM	**Coonamessett Inn** **Falmouth, MA** **Tuesday June 22, 2010** 10:00 AM - 11:30 AM

24 Hour Reservation line ~ Call (800) 382-3439

Another change that is scheduled to take effect next year relates to the income tax basis of inherited assets. Income tax basis is the value from which gain or loss on assets sold is measured. Under the law up until this year, the income tax basis of an asset is changed to the date of death value when its owner dies, as a general rule. But this year, this *automatic* change in basis will not occur. Rather, the deceased owner's income tax basis in assets will "carryover" to the persons who inherit the assets. It may be appropriate for your documents to be revised in order to take into account the possibility of carryover basis.

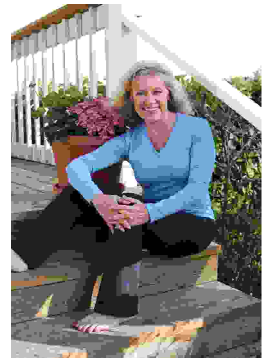
Therefore, we think it is important for you to consider coming in and discussing these matters with us.

If you would like to meet, please call us to arrange a meeting. We look forward to seeing you.

Massachusetts Homestead Now Available for Primary Residence Owned in Trust

Many of our clients have asked about recording a homestead on their primary residence in Massachusetts. Historically, the Massachusetts Homestead statute (Mass. Gen. Laws ch. 188) has been interpreted to protect an individual who owns or leases a home. Trust owned property has been considered not eligible for a homestead declaration.

A bill submitted to the Massachusetts Legislature, if passed, could vastly improve the Massachusetts Homestead Statute. The proposed law has wide support from lawyers across the Commonwealth, including the Mass Bar Association and the Real Estate Bar Association. Unfortunately, this important legislation has been held in Committee for about two years.



However, a recent decision in the U.S. Bankruptcy Court, *In Re Olga M. Rodrigues*, 09-11960-JNF, held that the Homestead Exemption may be extended to trust owned property as well. Focusing on specific language in the existing statute and the specific language contained in the Homestead Declaration recorded by Mrs. Rodrigues, the Court found that an estate of homestead ***may*** be obtained for real estate owned by a Trust.

An Estate of Homestead can protect the equity in your home for at least $500,000, and if you qualify under a particular section of the statute, for as much as $1,000,000.00. This protection extends to future creditors and lien holders. Prior mortgages, liens or other encumbrances are not effected by the recording of an estate of homestead.

In order to comply with this important decision, we have carefully drafted a "Declaration of Homestead" for our clients. This is not the "boiler-plate" homestead available at the Registry of Deeds. After reviewing the Registry's forms, it is our opinion that they won't provide protection to trust owned property under the *Rodrigues* case.

Every client, whose primary residence is in Massachusetts, should schedule an appointment to execute a "Declaration of Homestead".

Additional information about the Homestead Act may be found on our website:

boydandboydpc.com

Client Only Summer Seminars

We continue to provide seminars over the course of the year. Our main seminar, "Put Not Your Trust in Money ~ But Put Your Money In the Right Kind of Trust" gives a great overview of some of the many improvements we have implemented over the last couple of years.

Our other client only seminars were very popular this past winter so we are holding them again in July. One of the favorites this past winter was our Successor Trustee Seminar, designed especially for you & your successor Trustee. This seminar explains for your successor trustee what a trust is and how it works. It also gives your successor trustee the information they will need to understand their role in your estate plan. Since this is so critical to so many of our clients we have scheduled a special seminar date just for clients and their families.

Here is our summer seminar schedule:

Basic Estate Planning Seminar	Planning for Retirement Plans Seminar	Successor Trustee Seminar	Advanced Estate Planning Seminar ($1+ million)
Tues 7/13/10 10 am Hyannis	Tues 7/20/10 10 am Hyannis	Sat 7/24/10 10 am Hyannis	Sat 7/31/10 10 am Hyannis

These seminars are a great opportunity for you to learn about the latest developments in estate planning or, for those of you who already have a PAT or IRA Inheritance Trust, to refresh what your plan does for you & your family. Everyone is encouraged to attend these seminars!

Call (508) 775-7800 and reserve a seat for you, your spouse and your successor trustees for any or all of these seminars. Seats are all expected to fill up, so don't wait to call!

Funding Your Trust

We have long held that proper funding of your trust is of critical importance. It is advised to have a periodic review of funding to be sure your assets avoid probate and are optimally allocated between your trusts. Likewise, such a review can assist in highlighting how return on investments can be maximized.

We do this work and plan to contact clients to schedule a review. Please call for a complimentary consultation if you would like to immediately get started.

Health Care Reform Tax Planning

Health Care Reform Legislation was signed into law in March. The legislation, comprised of almost five thousand pages of text, enacted a variety of tax increases. The most significant of the tax increases is a surcharge on net investment income of 3.8%. Individuals with income over $200,000 and Joint filers with income in excess of $250,000 will begin to pay this surcharge tax in 2013.

While touted as a tax on the wealthy, the surcharge will impact many middle class families with irrevocable trusts. The surcharge tax is structured to impact individuals and trusts in the highest tax brackets. For a trust, the highest tax bracket is hit quite quickly, when the trust has taxable income of only $11,200. While, normally, a trust isn't taxed on income that is distributed to beneficiaries, capital gains are not usually distributed. Additionally, many trusts are now designed to retain income for the use of the beneficiary, rather than distribute the income (like many older trusts do).

The Health Care Reform Law is riddled with loopholes. These give tax avoidance alternatives to trusts that may otherwise be subject to the net investment surcharge. But, to avoid the surcharge tax, some advance planning is necessary.

If you are a high income household or the trustee of an irrevocable trust, call for a complimentary appointment to review how this tax may impact you and how it can be avoided.

Avoiding taxes is one of the most important and easiest ways to develop wealth. Let us help you to keep your hard earned money in your wallet and not in Uncle Sam's!

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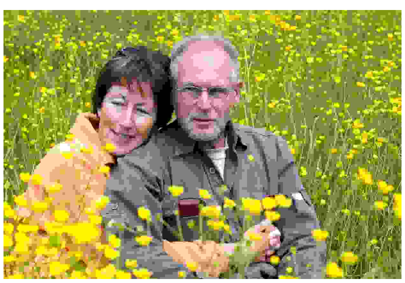
REMINDER: For those of you who are **Florida residents**: A change in Florida law has occurred which may **necessitate** an update to your trust and will. ***If you have not updated your plan since June of 2009, please call to schedule an appointment to sign this update as soon as possible.***

Expiration of the Bush Tax Cuts 2011 Is Almost Here

On January 1, 2011 many of the low tax rates we now enjoy will disappear! President Obama has pledged to let the Bush era tax cuts expire. That means that U.S. Estate Taxes will be levied on every estate over $1,000,000. Additionally, capital gains tax rates will return to 20% rather than its current 15% (with top bracket earners getting hit with the 3.8% surcharge making the capital gains tax rate an effective 23.8%)!

Special tax treatment of qualified dividend will expire and ordinary income tax rates will increase as well. So dividends, interest, IRA distributions, salaries, annuity payments and pensions will all bring home less after taxes.

There are a large number of techniques that will reduce the tax burden you will face beginning in 2011. To learn more, call (508) 775-7800 for a complimentary conference.



For More Information Contact
The Law Office of Boyd & Boyd, P.C.

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"You create the legacy. We create the plan."

Estate & Trust: Planning, Administration & Management,
Wealth Preservation, Asset Protection, Elder Law, Tax Law,
Business & Succession Planning

Visit us on the Web:
BoydandBoydPC.com
e-mail: plan@boydandboydpc.com
(508) 775-7800 Tel.
(508) 775-5666 Fax