

"It takes time and money to save time and money." unknown

Tax Consequences of Failed Planning

Introduction

Estate tax planning and gift tax planning are important components of the overall estate planning process. Further, since proper tax planning requires the implementation of time sensitive strategies, a common estate planning mistake is to simply fail to plan ahead. The purpose of this article is to educate on the importance of taking action.

Marital Deduction Planning

Marital deduction planning involves tax planning between a husband and wife to ensure they can take full advantage of the unified credit. As maximization of the unified credit typically requires the creation of a trust, every married couple should consider creating a family trust.

Business Succession Planning

Business succession planning is a very important aspect of the long-term success of any business, especially closely held businesses (e.g. family owned and operated businesses). In the closely held business context, family limited partnerships (FLP) or family limited liability companies (FLLC) will generally provide an effective way to reduce estate taxes while increasing asset protection for the business and its members. While the use of FLPs and FLLCs are two common ways to implement business succession planning, two related planning methods include implementing a buy – sell agreement as well as obtaining a “key man” life insurance policy, just to name a few. (A “key man” insurance policy is recommended when the sudden loss of an executive would have a significantly deleterious effect on the company's operations. The payout provided from the death of the executive essentially provides time for the company to find a replacement or implement other strategies to insure the survival of the business.)

It is important to remember that a failure to engage in proper business succession planning will not only impact the effectiveness of the ongoing operation of the business, but may also expose the business owners to unnecessary tax liabilities.

401K/IRA Beneficiary Planning

For most individuals, their 401K, IRA or other employer-sponsored retirement plan represents a significant portion of their assets or estate. Unfortunately, for many of these same individuals, the beneficiary designations of their various retirement plans are not periodically updated. This reality is especially problematic because employer-sponsored retirement plans are generally not governed by a will or trust. Therefore, a failure to update the beneficiary designations or discuss the beneficiary designations with an estate planning attorney can result in unequal distributions and tax treatment between beneficiaries and family members.

Estate and Gift Tax Transfers

Understanding how the estate and gift tax works is critical for individuals interested in benefiting their family members or loved ones financially, without incurring unnecessary taxes. Since there are several methods for transferring assets to beneficiaries while minimizing estate and gift taxes, a person desirous of engaging in estate or gift tax minimization should consult an experienced estate planning attorney.

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