

## **RECENT LAW CHANGES AFFECTING MINNESOTA ESTATE PLANS**

### **By Kevin Lanigan, Carlson Estate Planning**

In the past several years, significant changes have been made to Federal and the Minnesota tax laws which affect estate planning. The net effect of these changes has been significantly reduced or eliminated estate taxes for many Minnesotans, but has also resulted in the need for many clients to review and update their older estate plans to insure they are properly drafted to take full advantage of these changes. At the same time that the estate taxes have been decreasing, however, capital gains tax rates have been increasing, and affected taxpayers need to carefully consider the impact of those taxes on their heirs when structuring their estate plan. The following is a brief explanation of the taxes which might affect your estate plan:

*Federal Estate Taxes-* The Federal Estate and Gift tax exemption amount is \$5.45 million for individuals dying in 2016. The *exemption amount* is the amount which is excluded from consideration when calculating the estate tax. The federal exemption will be increased annually, based on inflation rates. With this large exemption amount, only a fraction of estates are now impacted by the Federal Gift and Estate Taxes. Note also that for married clients whose joint estates exceed the Federal exemption amount, proper estate planning can allow use of both spouses' exemption in order to protect up to twice the federal exemption amount (currently \$10.86 million), from any Federal Estate and Gift taxes for the joint estate.

*Minnesota Estate Tax-* Minnesota also began increasing the amount it exempts from estate taxes for Minnesota residents dying after 2014. The Minnesota exemption amount is currently \$1.6 million for decedents dying in 2016, and will increase by \$200,000 for the next two years, to reach a total exemption of \$2 million in 2018. Note that for married clients whose joint estates exceed the Minnesota exemption amount, proper estate planning can protect the couple's estate from up to twice the Minnesota exemption amount, (or \$3.2 million in 2016), from any Minnesota Estate taxes. The Minnesota estate tax rates now start at 10 percent of amounts over the exemption, and gradually increase to a maximum of 16 percent, for very large estates.

*Federal Capital Gains Taxes-* While it is true that fewer taxpayers are affected by estate taxes these days, recent changes to the federal capital gains tax rates, have increased those tax rates from 15% to around 20% percent on capital gains for many higher income taxpayers. As a result, clients wishing to avoid such taxes have more incentive than ever to continue to hold such assets until their deaths, in order to obtain stepped-up basis and eliminate the tax on such assets.

*Estate planning implications under these tax law changes-* As a result of these tax law changes, clients with plans designed to provide estate tax planning, should consider reviewing their plan to insure it is still properly structured to be effective under the revised tax laws. In many cases clients may no longer be affected by estate taxes, but they have old plans which still automatically "lock up" assets in an irrevocable trust following the death of the first spouse, which trust was designed to

avoid estate taxes which no longer exist. In larger estates which are still affected by estate taxes, but also hold assets subject to capital gains taxes, clients may want to consider reviewing whether their estate plan should give their successors the option to choose whether to incur *some* Minnesota estate taxes, following the clients death, in exchange for avoiding (more significant) capital gains taxes, when the assets are sold.

### **BENEFICIARY DESIGNATIONS FOR RETIREMENT ASSETS**

If your estate includes IRA, 401k, Annuities or other tax deferred assets, and your plan was created years ago when your children were still minors, you probably were advised to designate the trusts, established for them in your plan, as the primary or secondary beneficiaries of such assets, rather than passing them directly to your minor children. While this approach certainly makes sense when your children are young, you will want to review whether placing these highly taxed assets into a trust, rather than passing them outright to a child still makes sense when your children are responsible adults. If your children are now responsible adults, and your retirement plan still names trusts established for them as the beneficiary of your tax deferred assets, consider whether revising your beneficiary designations to name the children as direct beneficiaries is right for your plan.

### **TAKING ADVANTAGE OF MINNESOTA'S FARM PROPERTY DEDUCTION**

If you own agricultural land in Minnesota, the qualified farm property estate tax deduction may greatly reduce your Minnesota estate tax liability, if your property qualifies for this deduction, and your estate value exceeds the Minnesota exemption amount (\$1.6M in 2016). There are a number of requirements which the farm property must meet in order to qualify for the deduction, but for owners who have placed their agricultural property into trusts (**including their living trusts**), or other entities such as limited partnerships, limited liability companies, or corporations, they must complete a **Corporate Farm Application** and send it to the Minnesota Department of Agriculture in order meet the requirements of Minnesota Statutes section 500.24. (the Corporate Farm Statute). If the entity meets the requirements of the Statute, the entity will be sent an annual letter by the Department of Agriculture to complete, and return to the Department by April 15 of each year. **If you have prepared a revocable living trust and signed deeds transferring your agricultural property into your living trust to avoid probate, please review this issue.** Any questions can be directed to Doug Spanier at 651-201-6166, at the Department of Agriculture.