Dynamic Chiropractic

The State of Your Estate

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You work hard at building your practice. You are concerned about paying the mortgage, maintaining a nice car, and taking vacations now and then. You also have accumulated substantial net worth in your home over the years.

Have you properly planned for what is going to happen when you die?

All too often the doctor of chiropractic neglects to plan for the distribution of his estate upon his death, perhaps due to the busy day-to-day aspects of life and because death is an unpleasant subject to ponder.

Yet failing to plan for the proper distribution of an estate can yield disastrous consequences. Estates taxes can easily consume 50 percent of the worth of the estate the DC wishes to pass on to his family.

Under present law, the first spouse to die (assume it's the DC) can transfer a completely unlimited amount of wealth to his surviving spouse without paying any estate taxes. This law, which appears generous, is referred to as the "Unlimited Marital Deduction." The requirement, however, is that the surviving spouse must be given the entire interest in the particular asset. A variation is that this marital deduction can still be asserted when the surviving spouse is given only an interest in the income of the asset or assets for life, as long as the estate is properly structured and is deemed to be a "qualified terminable interest property" (QTIP). In order to receive QTIP benefits, the surviving spouse must be entitled to 100 percent of all the income on at least an annual basis.

What happens if the surviving spouse needs to invade the "res" (principal of the trust) for living expenses? Simply because that is necessary for the surviving spouse to live in a reasonable manner or to afford proper support of the minor children, the property will still qualify for QTIP protection.

A recent tax ruling states that if it is even remotely possible that the principal of the trust might be distributed to the adult children of the spouse who died, (the surviving spouse is not required to support adult children) the trust will not qualify for QTIP protection even if the adult children entirely depend on the surviving spouse.

Example: Let us suppose I.M. Successful, D.C. dies but had established a trust in for his wife to receive all of the income generated by the assets in the trust for his life. Further, presuppose that Dr. Successful granted the trustee a special power to distribute the principal of the trust to any dependent child (even if an adult). Would a marital deduction to avoid estate taxes through QTIP protection apply in this case?

The IRS ruled that this language was meant to include adult children dependent on the surviving spouse (wife). Because the children were adults, she would not legally be obligated to provide such support. Since it appeared that the power of the trustee to use the principal would not be limited to the children for whom his wife had a legal obligation to support, the trust was not eligible for the marital deduction as a qualified terminable interest property.

As a result of this one error, the tax on the estate could be as much as 50 percent.

It is therefore imperative for the doctor of chiropractic to have an estate correctly planned and properly drafted. If he already has an estate plan, in light of recent IRS rulings, it should be reviewed. A few well-spent hours now with a competent estate planning professional could result in hundreds of thousands of dollars in savings to the doctor's family.

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