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DLD NEWS AND VIEWS

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ESTATE PLANNING & WILLS

Currently, but due to expire in 2026, the federal lifetime exclusion from estate & gift taxes is $11.5 million per person with an opportunity for a surviving spouse to obtain any of the unused amounts of their deceased spouse. Resident estates of New Jersey no longer are subject to estate taxes but may be subject to inheritance taxes if beneficiaries are not Class A beneficiaries (spouses, children, grandchildren, parents, stepchildren, but not step grandchildren, etc.)

So, if you do not have to worry about your estate having an estate tax or inheritance tax liability why even have a Will? Well, there are a lot of non-tax reasons for having a Will. For starters - who will be responsible for the "ungodly" task of handling the affairs of your estate. Your spouse or children might not be ones to be saddled with the responsibility. If you are in a second or more marriage, how should your estate be divided up amongst your surviving spouse, biological family and extended family? What is legally required to bequest to any of these potential beneficiaries? What about the need for a trust to preserve the estate and insure that those who you desire to benefit from what you accumulated do benefit. Major importance is assigning guardianship of your minor children.

Bottom line - consult with an estate planner to update your Will, if you have one that is "old," or prepare one if you do not have one.

SELLING YOUR PERSONAL RESIDENCE

Here is "good news!" If you own and lived in the home as your primary residence for at least 2 out of the 5 years preceding the sale, generally, any gain less than $250,000 ($500,000 if married filing a joint return) is not subject to income tax. Any gain over these amounts is subject to tax. What if your spouse dies and you sell the house? In addition to being able to increase your tax basis by the date of death fair market value of the share of the home you inherited, there is a special rule that generally gives you two years to sell the house and benefit from the $500,000 exclusion. Another special rule allows for benefitting from the exclusion if you are in a nursing home. The period of time you are in the nursing home generally counts towards the two year rule.

New Jersey follows the federal rules so even if you move out of New Jersey after the sale you still avoid paying New Jersey income tax on any gain subject to the exclusion.

CHARITABLE CONTRIBUTIONS

If you will benefit from Itemizing Deductions, charitable contributions can help reduce your potential federal tax liability:

… the donation must be made before January 1st..... check to make sure the organization qualifies for the donation to be deductible. The IRS website has a link to look up the organization. Note: contributions you make to individuals, including programs that benefit individuals, no matter how worthy, are not deductible charitable contributions.

… generally the amount of a donation of property is based on the fair market value of the property, not what you paid for it. For example, a publicly traded stock that you purchased for a dollar that is worth $10 will generate a $10 deduction and the potential gain of $9 is not subject to tax.

.... for any single donation of $250 or more you need a written acknowledgement. All other donations need valid evidence of the amount of the donation.

.... keep in mind that the benefit of the charitable deduction is reduction of federal taxes even though your actual out of pocket is more. So, if you are not "charitable," making a donation to reduce your federal taxes may not be an appropriate choice for you.

Regardless of whether you itemize deductions or use the standard deduction, if you have an IRA, are charitable, and are 70 ½ years of age or older you benefit, by making the contribution from your IRA. The deduction reduces income directly by the fact that the distribution is not taxable for federal purposes and reduces your minimum required distribution. Charitable contributions from your IRA must also be made prior to January 1st.

RETIREMENT PLANNING

It is not too late to contribute to the various retirement programs that reduce income:

Traditional IRA - deductible up to $6,000 ($7,000 if age 50 or older). Contributions can be made up to April 15th.

401(k) - contributions up to $19,000 ($25,000 if age 50 or older). Contributions must be made before January 1st.

All the retirement plans have provisions for you to identify a beneficiary on your death. If you do not identify a beneficiary, your estate may become the beneficiary. Having your estate as the beneficiary may create adverse administration, income and tax consequences. It is recommended that you periodically check with the fiduciary that has your retirement plan to assure that your designated beneficiaries are properly in place, particularly if there have been life or family changes.

Think about it.....

Are you accountable for your actions and do you hold others to be accountable for theirs...?