

Abbott Men's Retirement Club – 11/4/09

Recent Changes to the Estate
and Income Tax Laws Will
Affect You!!!



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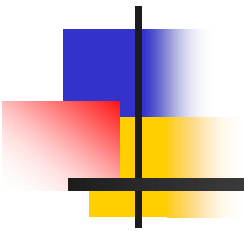
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Today's Discussion

- Estate Tax Law Changes
- Income Tax Law Changes
- Estate Planning "Traps"



**ESTATE
TAX
REPEAL?**

Current Estate Tax Law – Federal Exclusion “See Saw”

Tax Year	1997	2009	2010	2011
Federal Estate Tax Exclusion	\$600k	\$3.5M	\$5M <i>Estate Tax Exclusion</i> <i>Repealed</i>	\$5M

“Throw Grandma from the Train” Year



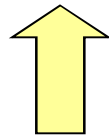
The Candidates' Estate Tax Proposals

OBAMA

- \$3.5 Million Exclusion
- 45% rate

McCAIN

- \$5 Million Exclusion
- 15% rate



The Winner!



Prediction – Federal Estate Tax Exclusion

- \$3.5 Million Exclusion
- Top 45% Rate



Problem: ILLINOIS Estate Taxes

- 2009 - "Frozen" **\$2M** IL Estate Exclusion
- 2010 - If \$3.5M Federal Exclusion "Frozen," IL must Pass New Law to Retain IL estate tax
 - Repeal Unlikely?!!



The Lesson –NO Estate Taxes

- If you are SINGLE:
 - If Assets are Less than \$2 Million

- If you are MARRIED:
 - If Assets are Less than \$4 Million

 - AND YOUR TRUST IS DRAFTED PROPERLY



CALL TO ACTION

- HAVE YOUR TRUST “UPDATED” TO MAKE SURE PROVISION:
 - Conform to Current Law
 - Express your Intentions
- Trends
 - Disclaimer Trusts
 - Joint Trusts



2009 Income Tax Rates

	Single	Married (Filing Jointly)
10%	\$8,350	\$16,700
15%	\$33,950	\$67,900
25%	\$82,250	\$137,050
28%	\$171,550	\$208,850
33%	\$372,950	\$372,950
35%	>\$372,950	>\$372,959



Likely Obama Income Tax Rate Increases

- Restores 36% & 39.6% rates on Highest Income Taxpayers
- Additional Tax on Top Earners?
- Capital Gains Taxes raised 15% to 20%
- **INCOME TAX RATES WILL RISE**



ROTH IRAs to the Rescue?

- **HUGE** Income Tax Planning Technique
 - 2010 - \$100,000 Adjusted Gross Income Limitation No Longer Applies
- Traditional IRAs
 - Distributions Subject to Income Tax
 - Required Distributions after Age 70 ½
- ROTH IRAs
 - Distributions NOT Subject to Income Tax
 - NO Required Distributions after Age 70 ½



ROTH IRA CONVERSIONS

- Regular IRAs are “Converted” to Roth IRAs
- THE PRICE TAG
 - **PAY INCOME TAXES ON ENTIRE IRA ACCOUNT**
- 2010 Conversions Only - Tax Deferral “Deal”
 - 50% Income 2011
 - 50% Income 2012



Do Roth IRA Conversions Make Sense?

- Maybe...if you:
 - Have the “Stomach” to Pay Income Taxes
 - Don’t Need to Consume IRA
 - Taxes on Conversion Paid from Non-IRA Funds
 - Subject to Estate Taxes
 - Desire to Benefit Family Members
- BIG BENEFIT: May Reverse Conversion by October 15th of Year following Conversion
- Requires Case by Case Analysis



Discussion

- **COMMON ESTATE
PLANNING MISTAKES**

MISTAKE #1: NO ESTATE PLANNING

- “Estate Planning” is Providing That:
- WHAT YOU OWN
- GOES TO WHO YOU WANT
- WHEN YOU WANT
- HOW YOU WANT

MISTAKE #2: WRONG TRUSTEE OR EXECUTOR

- SPOUSE?
- CHILDREN?
- SIBLINGS & FRIENDS?
- BANK TRUST COMPANY?
 - Co-Trusteeship with Family Member Preferred
 - Right Family Member to FIRE Bank

MISTAKE #3: NOT ALL ASSETS CONTROLLED BY WILL OR TRUST

- **JOINT TENANCY ASSETS**
 - Estate Tax Trap?
 - “Loss of Control”

- **ASSETS WITH BENEFICIARY DESIGNATIONS**
 - Insurance
 - IRAs and Pension Plans
 - Annuities



MISTAKE #4: WRONG BENEFICIARY FOR IRA/RETIREMENT PLANS

- **INCOME TAX DEFERRAL**
 - “Stretch” out IRA as Long as Possible
- **CONTROL ISSUES**
 - Minor or Irresponsible Children
 - 2nd Marriages
- **ESTATE TAX ISSUES**

Who should be Primary IRA Beneficiaries?

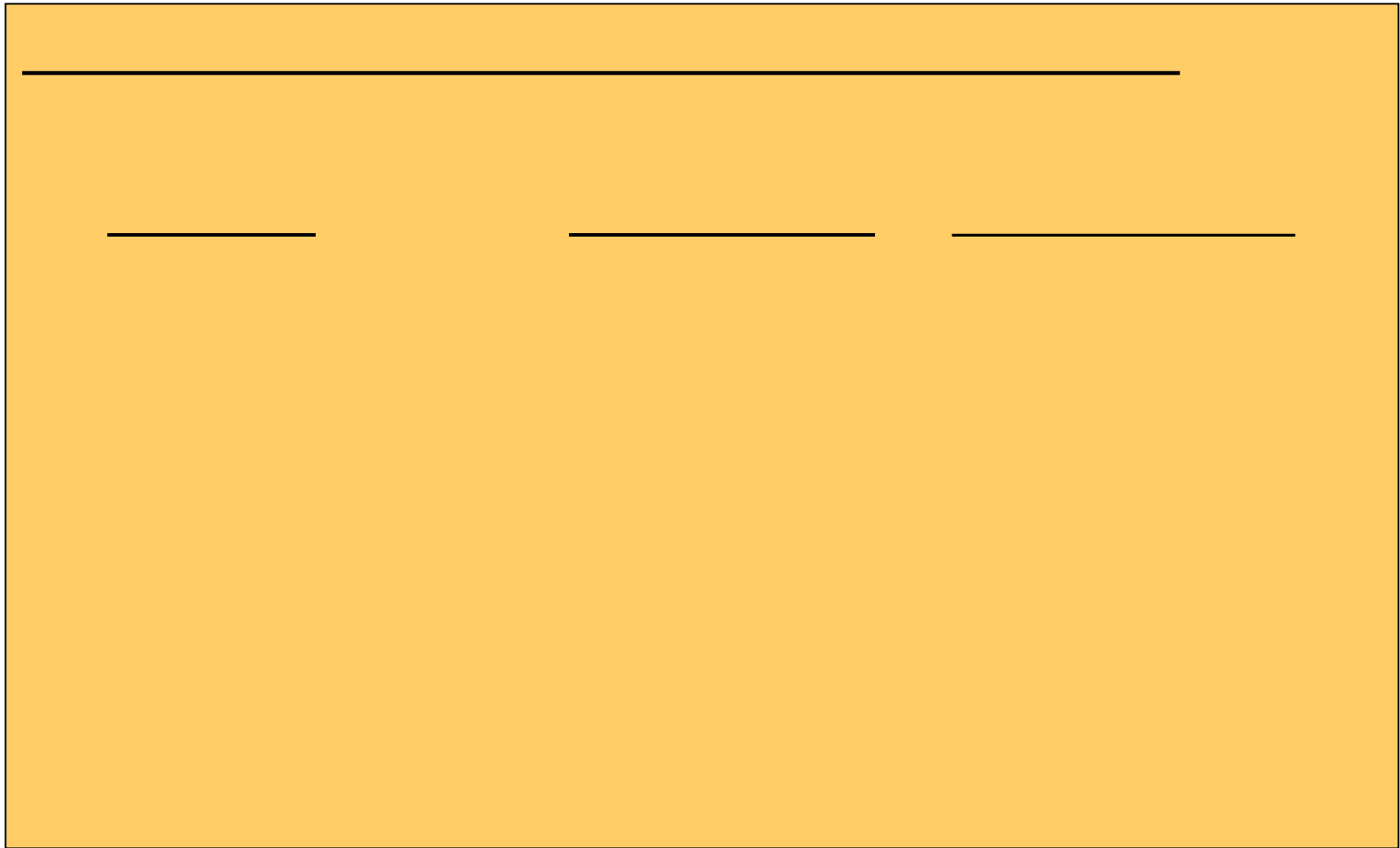
- **Spouse**
 - Harmonious 1st Marriages
 - “Stretch-Out” Benefits of Spousal IRA Rollover
 - Trust or Children are Secondary Beneficiaries
- **Trust** (Less Income Tax Deferral)
 - 2nd Marriages or “Control” Issues
 - Estate Taxes – Funds Credit Shelter Trust
- **Children or Grandchildren**
- **Charities** - No Income Tax Paid on Gift



Trusts as IRA Beneficiary?

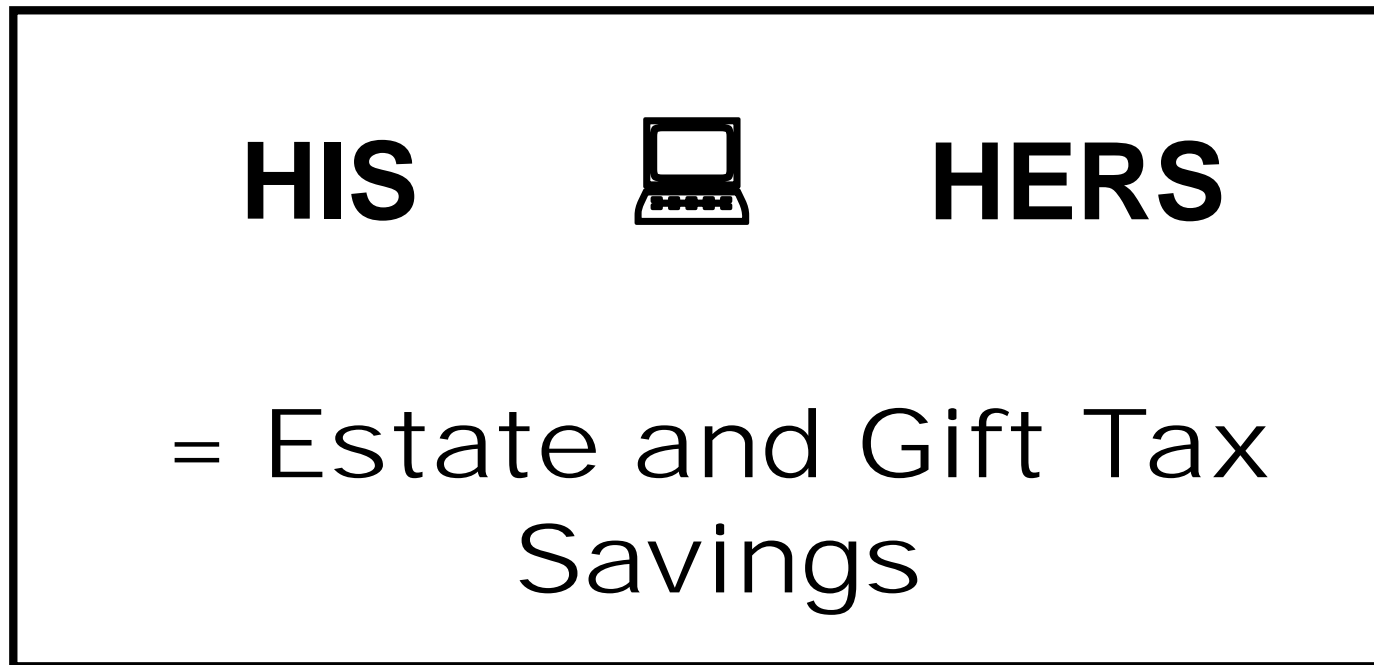
- **MISTAKE** if Trust drafted Incorrectly
- Many Trusts DO NOT Comply with New IRS Regulations
- Allowable Trusts
 - “Conduit” Trusts
 - “Accumulation” Trusts
- Attorney Review

MISTAKE #5: NO TAX PLANNING



Estate Tax Objectives

- Effectively use both spouse's exclusions



- Avoid “stacking” – Less estate taxes if both estate tax exclusions are used

2009 Estate Tax Rates

<u>Taxable Estate</u>	<u>Federal Tax</u>	<u>IL Tax</u>	<u>Tax Rate over \$2M</u>	<u>Tax Rate over \$3.5M</u>
\$2M	\$0	\$0	N/A	N/A
\$3.5M	\$0	\$209k	13.9%	N/A
\$5M	\$517k	\$352k	29%	57.9%
\$10M	\$2.5M	\$927k	42.9%	52.84%
\$20M	\$6.4M	\$2.3M	48.27%	52.66%

MISTAKE #6: NO PLANNING FOR SPECIAL SITUATIONS

- **Delayed Distributions Based on Age or Educational Achievement**
- **Drug, Alcohol or Impaired Child**
- **Educational Trusts for Grandchildren**
- **Planning for Second Marriages**
- **Creditor Protection**
- **Disabled Child**
 - **“Special Needs Trusts” to Prevent Disqualification of Governmental Benefits**

Educational Trusts/Gifts to Minors

- Trust established during lifetime
 - Give up to \$13,000 (2009) each year
 - Trust established after death - funded by portion of living trust assets (i.e., 25%)
- Unlimited exclusion for gifts directly to school or medical provider
- 529 PLANS

MISTAKE #7: NOT HAVING OR NOT FUNDING YOUR LIVING TRUST

LIVING TRUST:

- Avoids probate upon death
- Avoids guardianship upon incapacity
- Avoids or reduces Estate Taxes
- Protects inexperienced or incapable beneficiaries from managing assets

MISTAKE #8: NO ASSET PROTECTION PLANNING

- Adequate “Umbrella Insurance”
- Common IL “Protected Assets”
 - Tenancy by Entireties (Real Estate)
 - Life Insurance & Annuities
 - Death Proceeds
 - Cash Value if payable to Debtor’s “Dependent”
 - Retirement Plans & IRAs
 - Inherited IRAs may NOT be protected

Beneficiary Controlled Trusts

Superior Asset & Tax Protection



- Best Asset Protection vs. Outright Gift to Child
- Independent Trustee or Co-Trustee?
- Beneficiary Trustee at Certain Age (i.e. age 35)?
- Upon beneficiary's death, passes tax free to lower generation

MISTAKE #9: NOT REVISING YOUR ESTATE PLAN

- Births and deaths
- Moves between states
- Marriages
- Changes in your assets
- Divorces
- Business changes
- Inheritance
- Tax law changes



Keep Money In The Family

■ **“There are two systems of taxation in our country; one for the informed and one for the uninformed.”**

(Judge Honorable Learned Hand - Appeals Court Justice)

THE END!!!



- Thank You
- Initial “No Cost” Consultation

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