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NEW LAWS AFFECT ESTATE PLANNING

Several new laws have been enacted (or, in the case of estate taxation, *not* enacted) that may affect your estate planning. The following is a brief description of several of the more important developments. If you would like more information, just call our office.

Federal Estate Tax

The uncertainty surrounding the future of the federal estate tax continues, despite several deadlines being on the horizon. For 2009, the federal estate tax “exemption” is \$3,500,000, with a maximum tax rate of 45%. In 2010, the federal estate tax is REPEALED. Unfortunately, the repeal will be short-lived: In 2011 and beyond, the exemption falls back to the 2000 level of \$1,000,000 (with a maximum rate of 55%).

While there was talk during the Bush years of making the repeal permanent, given the current political and economic climate, this seems highly unlikely. Rather, among the several proposals to “fix” the federal estate tax, the one that seems most likely is to “freeze” the estate tax at the current (*i.e.*, 2009) level. We will keep you informed of developments.

Despite higher *federal* estate tax thresholds, New York’s estate tax begins at \$1,000,000 (with a marginal rate of 41%). It is important for anyone with a gross estate in excess of \$1,000,000 to have a flexible estate plan that minimizes or avoids the New York tax. (Your gross estate may include more assets than you think. Call us if you would like assistance in determining the value of your gross estate.)

F & L RECOMMENDATION

Given the uncertainty of the estate tax laws, we are recommending that anyone with a gross estate in excess of \$1,000,000 have an estate plan that includes flexible provisions that can — depending on the tax laws in effect at the time of death — be used to avoid or minimize estate taxes. If you are unsure whether your estate plan includes these provisions, just call and we will review your Will.

New Power of Attorney Form

New York State has revised its “Statutory General Power of Attorney” form. The new form—which is required after September 1, 2009—is more detailed (and much longer) than the previous two-page form. The major changes in the form include: (1) Authority to make gifts (in our opinion, an important provision to include in a POA) must be set out in a separate rider, which must be notarized *and* witnessed. (2) The person appointed as your power of attorney (the “agent”) must formally accept the appointment by signing the Power of Attorney.


The law specifically provides that a Power of Attorney signed prior to the new law continues to be effective. We are recommending, however, that our clients “upgrade” to the new form for two reasons: First, over time the new form will be more recognizable to banks and brokerages. Second, the form is more detailed and provides more protection for the principal.

If you would like to “upgrade” to the new Power of Attorney, please call our office (we have a special upgrade price for existing clients and their families).

Medicaid “Look-Back” Now Five Years

Long-term care and nursing home costs continue to increase at an alarming rate. The cost at area nursing homes now runs between \$8,000 and \$10,000 per month ... or \$96,000 to \$120,000 per year!

Clients can take steps to protect their assets from being exhausted by these costs. Unfortunately, since February 8, 2006, any transfers of assets for the purpose of avoiding long-term care costs must be made FIVE YEARS prior to an application for Medicaid assistance in order to be fully effective.

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FIRST CLASS MAIL



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MEDICAID PLANNING

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We can use our elder law experience to recommend asset protection strategies that can minimize depletion of your estate in the event long-term care becomes necessary.

In light of Medicaid's FIVE-YEAR look-back, we are recommending that clients who wish to protect their assets do so while still active, healthy and "young" (say, 60's or 70's). If serious health problems arise, it is often too

FAMILY WILL PACKAGE

For parents of minor children, there's barely time to sleep, much less to get a Will in place. But a well-designed estate plan can provide important protection for the children, as well as peace-of-mind for parents.

Recognizing the difficulty parents face, we have designed a "one-meeting" Family Will Package. Information is obtained and options discussed via telephone, mail, e-mail and/or fax (whatever works for you!). Upon arrival at the office — evening and weekend appointments are available — drafts are ready for review, revision and signing ... all while you wait. Our Family Will Package is competitively priced and includes: Last Wills, Powers of Attorney, Health Care Proxies, and assistance with change of beneficiary forms.

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ADDITIONAL SERVICES

- ✓ We handle REAL ESTATE closings for both sellers and buyers.
- ✓ We are now offering income tax planning and TAX RETURN PREPARATION. This service, however, is only available to our clients.
- ✓ We are offering—on a limited basis—a book-keeping and "BILL PAYING" SERVICE for our clients. For qualifying clients, we (i) RECEIVE mail, (ii) PAY bills, (iii) keep records, (iv) PREPARE tax returns, and (v) PROVIDE reports to family members.