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THE STATE OF ESTATE TAX

Once an unchanging area of law, in recent years both federal and New York State estate taxation has undergone (and will continue to undergo) many changes. In 2010, the federal “Exemption Amount”—that is, the amount that can pass free of estate tax—increased to \$5,000,000. The new law also provided that the federal Exemption Amount be indexed for inflation (for 2016, it’s \$5,450,000), and allows a husband and wife to elect to *combine* their Exemption Amounts (called “portability”), thereby avoiding estate tax on \$10,900,000 of assets.

In 2014, New York (finally!) updated its estate tax law, with the Exemption Amount rising to \$4,187,500 on April 1, 2016. The New York Exemption Amount will continue to increase until January 1, 2019, when it will match the federal Exemption Amount. Unfortunately, New York has not adopted portability, so the use of both Exemption Amounts by a married couple still requires careful planning. There’s another catch: If an estate is over the New York threshold, the exemption is quickly phased-out, resulting in marginal rates over 100%! Again, careful planning can avoid “falling off the cliff.”

If your estate is under \$4,000,000 and your Will (or trust) includes estate tax provisions (for example, a “Credit Shelter Trust”), we recommend that you make an appointment to discuss simplifying your plan. If, however, your taxable estate is over \$4,000,000, we recommend that you make an appointment to discuss planning options to minimize or avoid the New York estate tax.

ESTATE PLANNING CHECK UP

When we send a package containing estate planning documents to our clients, we attach pink “routing slips” showing our recommendations for the storage or distribution of the documents. It is important to follow these instructions. Our office often receives phone calls looking for planning documents that we prepared. We direct them to look for a large envelope from our office and — invariably — they tell us that all of the documents are still in the envelope. Please be sure to distribute your documents according to our recommendations on the pink slips.

PROTECTING ASSETS FROM NURSING HOME COSTS

The cost of a nursing home in Western New York can exceed \$12,000 per month. Many of our clients seek to protect their assets from these costs by transferring them to family members—either outright or in a trust—with the intention of becoming eligible for Medicaid assistance. Certain asset transfers, however, must be made at least *five years* before an application for Medicaid assistance.

But what if a loved-one needs nursing care and no asset protection planning is in place (or if transfers were made within the past five years)? *It may not be too late:* There are last-minute planning techniques available to protect some—but maybe not all—of the family’s assets. If a family member requires skilled care (or is likely to require such care in the future), contact our office as soon as possible.

DIGITAL ASSETS

More and more, property is being owned in digital, rather than physical, form. Some of this digital property has monetary value, such as online access to bank and brokerage accounts, and some has purely sentimental value, such as electronically stored photographs or access to social media accounts.

If you no longer receive paper statements in the mail, how will your loved ones know what accounts you had and where to find them? What will happen to your digitally stored photographs, music, and books when you pass away? Unfortunately, there are no clear cut laws dealing with these issues.

We recommend that you (i) make an inventory of your assets, and (ii) make a list of the usernames and passwords for your online accounts. The inventory and list should be stored in a *very* secure place, such as a safety deposit box (or our Will Safe).

ADDRESS CORRECTION REQUESTED

SPRING, 2016

- ☞ Estate Tax Update
- ☞ Follow the Pink Notes
- ☞ Digital Assets
- ☞ Nursing Home Costs
- ☞ Real Estate Closings

THIS IS OUR LAST PRINT ISSUE!

This will be the last mailed issue of the FENSTER, LEWIS & GOOD *Newsletter*. Future issues (as well as past issues) will be posted to our website: **www.FensterLewis.com**. If you would like to receive our *Newsletter* and firm announcements by e-mail, please either:

- Call us at **(716) 632-4167**, or
- Send an e-mail to
Newsletter@FensterLewis.com, or
- Subscribe on our website.

OUR ESTATE AND TRUST ADMINISTRATION SERVICES

In addition to our estate planning services, our firm assists families with the administration of a loved one's estate. Sometimes referred to as "probate," the administration of an estate can involve many separate but interrelated tasks: court proceedings, collection of assets (bank accounts, stocks, bonds, life insurance, retirement accounts), income tax planning and the preparation of income tax returns (both for the family member who has passed, as well as for his or her estate), estate tax planning and the preparation of estate tax returns, preparing an accounting for the beneficiaries, making distributions, obtaining necessary documents to close the estate at court, etc.

We take pride in handling estate and trust administrations quickly, compassionately, and for a reasonable price. Indeed, while legal fees at some law firms are based on a percentage of the assets (as high as 5%!) or an open-ended hourly rate, **we will quote an up-front, fixed-fee for our work.**

OUR STAFF

Olivia Crosby
Rebecca E. Miller
Blair K. Andrews
Jack Van Der Puy
Kimberly J. Lehrbach

REAL ESTATE CLOSINGS

We are pleased to recommend Denise A. Herman, formerly an attorney with our firm, for real estate closings. (We will, of course, continue to handle deed transfers in connection with estate planning or estate administration.) Denise has extensive real estate experience, and she shares our firm's values for producing the highest quality work and representing clients with compassion.