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SO YOU WANT TO MAKE GIFTS

People make gifts to their family members and friends for various reasons. Regardless of the reason, you should be aware that something you thought of as a mere generous act could also cause unintended gift tax consequences.



There are many ways you can make a gift without the concern of a gift tax consequence.

1. Annual Exclusion Gifting. The gift tax annual exclusion amount is currently \$14,000. This means that you can give \$14,000 per year to as many individuals as you choose without incurring any gift tax consequences (\$28,000 per beneficiary if husband and wife split the gift).

2. Lifetime Gift Tax Exemption. Each individual's lifetime gift tax exemption is currently \$5,250,000. Thus, if you make a gift to an individual in a given year in excess of the \$14,000 annual exclusion, the portion of the gift in excess of the \$14,000 would be subject to gift tax. However, it does not automatically mean you will need to pay gift tax. In most cases, the amount of the gift in excess of the \$14,000 would

simply reduce a portion of your \$5,250,000 lifetime gift tax exemption. Gift tax would only become due to the extent that your lifetime gifting exceeded the \$5,250,000. In other words, if all of your gifts remained within the parameters of your annual exclusion gifting, the lifetime exemption would remain intact. The lifetime exemption is only utilized when the gift does not qualify for, or exceeds, an annual exclusion gift.

3. Medical Expenses and Education. You can make unlimited payments for an individual's medical expenses and/or education without gift tax consequences. The only caveat is that such payments must be paid directly to the health care provider and/or learning institution (not as a check to the individual beneficiary, who in turn sends the money to the medical facility or school).

Various advanced estate planning techniques may be implemented to maximize the use of your annual exclusion gifting and lifetime gift tax exemption including the implementation of life insurance trusts, irrevocable gifting trusts, family limited partnerships and limited liability companies, or a combination of these techniques. If you desire to make gifts and have questions whether any of these advanced planning techniques would work for you, please do not hesitate to contact us.

ASSET PROTECTION USING A LIMITED LIABILITY COMPANY



In a world where it seems like everyone is suing everyone, asset protection has become a major concern for many people. Depending on the circumstance, using a limited liability company ("LLC") may be a good way to protect you and your assets from liability.

For example, you may be an individual who owns one or more apartment buildings which rent residential units to tenants. If you own the building and a tenant slips and falls on the premises, the tenant will likely sue you, individually, and, if he or she prevails, would be able to attach all of your assets. Obviously, this result could be financially devastating.

On the other hand, the result under this circumstance would be quite different if the apartment building were owned by an LLC instead of an individual. Asset protection laws in Florida pertaining to LLCs are quite favorable. In Florida, if the owner of an LLC, or member, has a creditor, the exclusive remedy the creditor would have is a "charging order" against the member's LLC interest. What this means is that if the property is owned by the LLC and you are sued, the creditor would have a charging order against your interest. Thus, although the creditor will attach to your interest in the LLC as an assignee, the creditor does not receive the property. The only way the creditor would receive the property owned by the LLC is if the Manager of the LLC directs a distribution to its members (which it obviously would not do knowing there is a creditor). Since the LLC would likely be treated as a partnership for income tax purposes, the attaching creditor would also receive a K-1 for the LLC interest. The income tax attributable to the membership interest would

need to be paid by the creditor. It is probable that the debt would be negotiated at such point, as the creditor would be responsible for the payment of income tax on assets he or she does not receive (because the creditor attaches to the LLC interest but does not get the property, the Manager of the LLC would not direct a distribution)!

If you have rental property or a “dangerous” asset such as an airplane or boat where the potential for a lawsuit is significant, the LLC is worth discussing. The LLC has become the entity of choice because of its creditor protection and many clients have opted to convert their existing corporations to LLCs. Also, the LLC is also an important vehicle for estate tax purposes. For example, if you own real property outside of Florida, you may want to consider placing the property in an LLC, as this could potentially avoid any state estate tax in the state where the property is located that would be due upon your death.

Lastly, if you are considering an LLC for asset protection purposes, you should remember that asset protection planning only works if it is done before the creditor emerges. Any implementation of an asset protection plan after the emergence of a creditor would likely be set aside and viewed as a fraudulent conveyance.



DIGITAL ACCOUNTS

In today’s world of e-mail and the Internet, you must consider how family members will be able to access and dispose of your “digital life” upon your incapacity or death. Ultimately, you will need to consider the appropriate dispositions for your digital assets, specifically, whether to delete, close or maintain accounts. At this time, only a few states have laws which address probate and digital assets (Florida does not) and there is no formal authority to govern the access and distribution of these assets.

Until such time as legislation is passed to specifically address digital assets and the protocol to administer them, we recommend that you carefully consider all of your digital assets (including, but not limited to, bank accounts, investment accounts, accounts with health care providers, social media accounts such as Facebook and Twitter, gambling and poker accounts, accounts with publishers, accounts for access to employee benefits, email accounts, accounts with Internet service providers, accounts to manage websites and website domain names, accounts with retail vendors, and accounts with utility companies) and compile a list which details all of the account information, such as where the account is held, the URL or website address, usernames, passwords and “secret” security questions and answers. Organizing this information allows your family to have all of the tools necessary to access and address these types of online accounts in the event of your incapacity or death.

We recommend that you write down all of your pertinent digital account information in a format that works well for you (such as a chart or excel spreadsheet). As this information should remain secure and not be readily accessible, we recommend that you retain the documentation in your safe deposit box at the bank or home vault. It should be located somewhere so that it remains secure, but can be found in the event of incapacity or death. You should also remember to update this digital account information as digital accounts are opened or closed.

Members of our Firm’s Preferred ClientCare® program receive the exclusive benefit of Secure Client Docs, our online document and information storage system. We follow a strict and comprehensive set of practices, technologies and policies to ensure that our Preferred ClientCare® member online data remains secure and confidential. Secure Client Docs allows members to store copies of estate planning documents, as well as digital account information. Preferred ClientCare® members can access this information at any time and from any Internet connection. Through this system, our members also have the ability to customize specific login and password credentials for family members or whomever they choose to have access to their important documents and highly sensitive digital account information. For more information on our Preferred ClientCare® program, please feel free to contact our office.

NEWS & NOTES

ALAN B. ROSENTHAL NAMED PRESIDENT OF GREATER BOCA RATON ESTATE PLANNING COUNCIL



Alan B. Rosenthal officially began his term as president of the Greater Boca Raton Estate Planning Council (GBREPC) on July 1. The GBREPC is the premier organization in Boca Raton for attorneys, accountants, trust officers, certified financial planners and planned giving professionals.

With more than 150 members, the GBREPC’s mission is to promote cooperation and camaraderie among professionals in the continually changing estate and financial planning industries with the goal of providing better service to their clients as well as the general public. Mr. Rosenthal previously served as secretary, vice president of membership, and president-elect of the GBREPC.

With nearly 18 years’ experience, Mr. Rosenthal chairs the firm’s Estate Administration Group. With competency and compassion, he assists individuals and families as they transition from lifetime planning through estate settlement and works on behalf of personal representatives, trustees and beneficiaries in estate and trust matters. Mr. Rosenthal also has extensive knowledge in achieving multi-generational wealth preservation. He works with individuals, families, and their advisors to develop and execute their estate planning objectives while minimizing estate, gift and other transfer taxes. His high ethical standards and legal ability in these areas as well as asset protection, business and tax planning, and charitable planning have earned Mr. Rosenthal the highest ranking (AV-rated) from the Martindale-Hubbell Bar Register of Preeminent Lawyers. Partner Arthur R. Redgrave is also recognized with an AV-rating.

Additionally, Mr. Rosenthal presently serves as the chairman of the Professional Advisory Committee of the Anti-Defamation League.

JENNIFER E. ZAKIN, RISING STAR



The firm is proud to announce that one of our attorneys, Jennifer E. Zakin, has been selected to the 2013 Florida Rising Stars list. Each year, no more than 2.5 percent of the lawyers in the state are selected by the research team at *Super Lawyers*, a Thomson Reuters business, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement.

With nearly 15 years’ experience, Ms. Zakin has an extensive background in sophisticated estate and tax planning. She implements complex estate planning instruments including irrevocable insurance trusts, charitable remainder trusts, charitable lead trusts, qualified personal residence trusts, grantor retained annuity trusts, family foundations, and defective grantor trusts.

Ms. Zakin works extensively with clients who are business owners to transfer ownership of business interests to future generations while minimizing transfer tax cost and without disruption of the family business. Additionally, Ms. Zakin assists doctors and other professionals in need of asset protection planning; specifically, she recommends and executes intricate asset protection plans involving entities such as family limited partnerships and limited liability companies, irrevocable trusts, and a combination of these techniques.

Active in the legal and business associations throughout Palm Beach County, Ms. Zakin has co-authored numerous articles and presented at seminars pertaining to asset protection and entity planning. In addition to her legal practice, she is currently active in various networking groups. Previously, Ms. Zakin was the Assistant Director, Federal Tax Division In Charge of Estate Planning, Tax Section of the Florida Bar and an active member of the following divisions of the Estate and Gift Tax Committee of the Federal Tax Division, Tax Section and the Real Property, Probate and Trust Law Section of the Florida Bar.

A member of the Florida Bar, Ms. Zakin received her law degree from Nova Southeastern University and her LL.M. in Taxation from the University of Miami School of Law. She earned her undergraduate degree from the University of Michigan.