

Price & Farrington's Estate and Tax Planning FastFaxts

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Estate, Tax, Business and Wealth Planning for Advisors and Clients

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Year-End Planning: Charities, Gifts, Taxes and Trusts

Here is a brief review of some important estate planning considerations as 2005 winds down:

1. Federal Estate Tax and Gift Planning. It looks like the federal estate tax (FET) will be around for a while. Washington D.C. politicians appear to have abandoned—or at least postponed—the effort to eliminate the FET. On January 1, 2006 the amount a person can pass federal estate tax-free at the time of death (to non-spousal beneficiaries) increases from \$1.5 to \$2 million. Under current law this is scheduled to increase to \$3.5 million in 2009. The tax will be totally eliminated in 2010 (a good year to die). Then the amount that can be protected from FET decreases to \$1 million in 2011 and thereafter. Sound confusing? Yep.

While Congress is expected to reach a compromise resulting in a \$3-5 million per person FET exclusion amount, no one can predict with certainty what will happen. Our advice is that it is safest to plan for the worst and hope for the best.

More basics: the annual exclusion. The amount that can pass estate tax-free on death is reduced by “taxable gifts” made by a person during lifetime. Taxable gifts are those that

exceed the “annual exclusion gifts”. These are gifts which the law allows to be ignored, and are based upon \$11,000 per donee in 2005, increasing to \$12,000 per donee in 2006. This means that a married couple with three children and one grandchild could gift \$44,000 each (\$88,000 if they “split” their gifts) in 2005, and another \$48,000 each (or \$96,000 with gift-splitting in this example) for 2006. Families with more donees will be able to make even larger gifts (including gifts to non-family members).

Crummey ain't bad. It is important to remember that annual exclusion gifts can be made not only directly to individuals but also to special irrevocable trusts that may be held for the long term benefit of children or other beneficiaries. The proper use of so-called Crummey withdrawal rights becomes very important here (see us for planning strategies using Crummey gifting.)

In addition to this annual exclusion allowance, transfers made *directly* to medical care providers and educational institutions for qualified purposes can be made gift tax-free. Also, college savings plans (Section 529 plans) have special income, gift and estate tax advantages.

Bear in mind that the chance to make tax-free gifts for 2005 is lost if the gifts aren't made by year-end.

The Spousal Benefit Annual Exclusion Trust. This breed of animal, as an example, would allow a husband or a wife with three children to transfer \$66,000 in 2005 and \$72,000 in 2006 into a special trust for the lifetime benefit of the other spouse, the children and future grandchildren. The beneficiary-



HAPPY
HOLIDAYS!



spouse (for example, the wife) could be the trustee of this trust and receive amounts she might need for health, education, maintenance and support (the “HEMS standard”) during her lifetime. The wife might also have the right to appoint how the trust assets would be divided among children and grandchildren at the time of her eventual death. This is also sometimes called a “Lifetime Bypass Trust” and is a variety of what might be established as an Irrevocable Life Insurance Trust (ILIT). Some of our clients have Family Limited Partnerships or Limited liability Companies from which they gift discounted, non-controlling interests into this type of trust each year.

Locked up. Most clients want to assure that on the death of one spouse an appropriate portion of overall family assets are “locked up” for protective purposes in a “bypass” trust that can benefit the surviving spouse and descendants in a protected manner, without being subject to federal estate tax on the death of the surviving spouse. It is very important to coordinate asset ownership and tax planning in order to facilitate proper funding of such a trust on the first death.

State estate tax. Washington, along with other states, now has a stand-



Happy Holidays from
all of us at
Price & Farrington!

Our best wishes to you and your
family for a safe and joyous
Holiday season!

We hope your New Year is
filled with love, health and
happiness.

Glenn, Chuck, Doug
& Andrea



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alone state estate tax (See our June, 2005 *FastFacts*, "Planning Alert: Washington State's New Estate Tax: How It Works"). In 2006, the amount that can be protected from Washington's estate tax on the first death is \$2 million, which is the same as the applicable exclusion amount for federal estate tax.

One size doesn't fit all in estate planning (See our Aug. '05 *FastFacts*).! With the significant

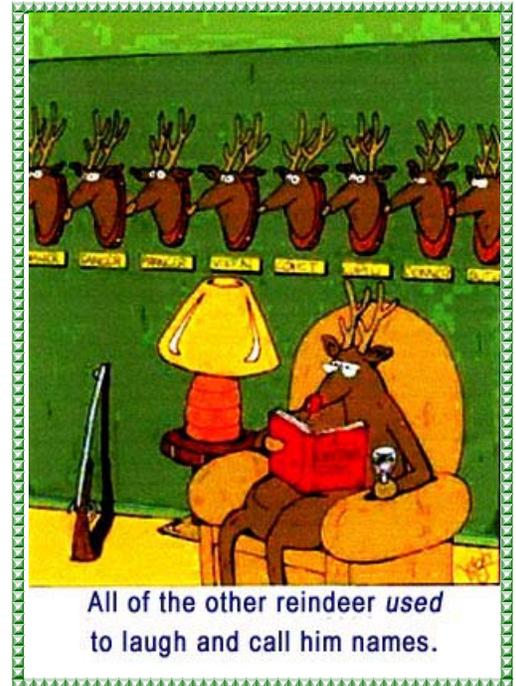
changes in tax and asset protection planning law that have taken place in recent years—driven by politics and economic policy—it is very important to periodically update family planning. While most clients might not need major changes, it's almost always worthwhile to do a check-up and an update every few years.

Incentives for Charitable Cash Gifts Are Temporarily Increased.

—Thanks for the following to Frank Minton, President of Planned Giving Services and advisor to The Seattle Foundation. The Gift Planning Team at The Seattle Foundation can be reached at 206.622.2294.

The Hurricane Katrina relief bill, unanimously passed by the U.S. House and Senate on September 21, and signed into law on September 23 increases the contribution limit for outright gifts of cash made during the period August 28, 2005-December 31, 2005. Under existing law, the maximum amount of cash contributions that are deductible in any one year is 50% of adjusted gross income (AGI). That limit has now increased to 100% of AGI in the case of certain cash gifts made during the designated period. A contribution to a public charity (not to a private foundation or a donor advised fund) will qualify for the higher limit. The contribution will qualify whether or not the public charity is engaged in Katrina relief, and whether or not the contribution is unrestricted or for a designated purpose.

Example. Donald Donor has AGI of \$200,000. Prior to August 28 he made contributions to various charities totalling \$50,000. He wants to help charities involved in Katrina relief, as well as other charities whose donations are down because dollars that would have normally flowed to them have been diverted for Katrina relief. Donald contributes \$150,000 cash to certain public charities between August 28 and the end of the year. He will be able to deduct \$200,000 for 2005, resulting in zero income tax. Before the increase in the



deduction limit, Donald would have been able to deduct only \$100,000 in 2005, though the excess could have been carried forward for up to five additional years.

Sidebar: Making Gifts Wisely

It is important to remember that a contribution to charity doesn't automatically provide a tax deduction. You must file a return that itemizes deductions, instead of claiming the standard deduction. Every contribution larger than \$250 must be documented with an acknowledgment letter received from the charity before the tax return is filed. A canceled check isn't sufficient proof for a deduction. To save the most taxes, donate long-term-gain property, such as stock shares; you'll get a deduction for its full value and avoid paying tax on the gain. ■

We wish you and your clients good planning in 2006! We're here to help.



♪ "Tuning" Up for the Holiday Christmas Carol Lyrics (As kids interpret them...)

- * He's makin' a list, chicken and rice.
- * Olive, the other reindeer.
- * With the jelly toast proclaim.
- * You'll go down in Listerine.
- * Oh, what fun it is to ride with one horse, soap and hay.
- * Sleep in heavenly peas.
- * You'll tell Carol, "Be a skunk, I require."
- * Good tidings we bring to you and your kid.
- * We three kings of porridge and tar.



Name that Christmas Tune (Answers below. Don't look.)

1. "Righteous Darkness"
2. "Loyal Followers, Advance"
3. "Bantam Male Percussionist"
4. "Monarchical Triad"
5. "Red Man en Route to Borough"
6. "Frozen Precipitation Commence"
7. "Embellish Interior Passageways"
8. "Precious Metal Musical Devices"
9. "Allow Crystalline Formations to Descend"
10. "Delight for the Planet"

Answers:

1. O Holy Night
2. O Come, All Ye Faithful
3. Little Drummer Boy
4. We Three Kings
5. Santa Claus is Coming to Town
6. Let It Snow
7. Deck The Halls
8. Silver Bells
9. Let It Snow
10. Joy to the World