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assets

a business, tax, and financial newsletter

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in this issue:

Taking Charitable Giving to Another Level

Did you know that you can gift a new or existing life insurance policy to your favorite charity? When properly designed, a **charitable life insurance** program may improve your overall financial situation and offer tax benefits, all while supporting a charitable cause.

Generally, there are three methods used to gift a life insurance policy to a qualifying charity: a **charitable bequest**, a **charitable gift**, and a **charity-owned policy.** Regardless of the strategy, policy ownership and **beneficiary** arrangements play an important role in the planning process. A consultation with a qualified legal professional can clarify your goals and expectations, provide information on the limitations on charitable deductions, and help you achieve the desired results, while avoiding unnecessary complications.

A Comparison of Gifting Strategies

A ***charitable bequest*** is ideal if you would like a charity to benefit from the proceeds of an existing life insurance policy but do not wish to surrender control during your lifetime. By changing the designated beneficiary to a desired charity, you retain the benefits of owning a policy because **incidents of ownership** still exist in the policy. There is no immediate income tax benefit for this type of charitable gift. Upon your death, however, even though the proceeds will be included in your gross estate, a charitable deduction for the full value of the policy proceeds is allowed.

If you wish to receive an *immediate* income tax deduction for a gift of an existing policy, consider a ***charitable gift.*** By changing the beneficiary *and* ownership designations to a favorite charity, you can obtain an immediate gift tax charitable deduction for the policy. This deduction is based on the lesser of your cost basis or the value of the policy. You may also qualify for an income tax deduction.

If you make regular cash contributions to a charity, you may be able to leverage smaller gifts into a larger endowment. With a ***charity-owned policy***, a life insurance policy—where permitted by state law—is purchased by and made payable to a charity of your choice. Policy premiums are technically paid by the charity. To offset this cost, you make annual cash gifts to the charity, and as a result, you may be eligible to deduct a portion of your

continued on page three

An Overview of Asset Preservation with A/B Trusts

Asset preservation goes hand-in-hand with wealth accumulation. The Federal estate tax law makes planning your estate and staying abreast of legislative changes essential. Every estate may exclude a certain amount of property from estate tax, and in 2015, that amount is $5.43 million for individuals and $10.86 million for married couples (adjusted annually for inflation).

Thanks to the unlimited marital deduction, assets that are passed to a surviving spouse do not incur any estate taxes. But, estate taxes would be owed on the portion of the estate that exceeds the applicable estate tax exemption amount, which is $5.43 million in 2015. To maximize the exemption for both spouses, an **A/B Trust** would preserve the estate exemption of the first spouse to die while allowing the surviving spouse to use the exemption, in effect increasing the amount exempted from the estate tax.

When the American Taxpayer Relief Act (ATRA) of 2012 passed into law in January 2013, however, the exemption amount was permanently extended ($5.43 million in 2015 and indexed annually for inflation), and the Federal estate tax rose to 40%, excluding many married couples from having to pay the Federal estate tax. In addition, ATRA allows a surviving spouse to use the deceased spouse's unused exemption amount, along with his or her own exemption amount up to $10.86 million in 2015.

But you may still want to consider an A/B trust as a viable option because many states have their own estate and/or inheritance taxes. An A/B trust could preserve a married couple's state estate tax exemption, shelter appreciated assets, offer creditor protection, as well as benefit children from a previous marriage.

Setting Up A/B Trusts

After the death of the first spouse, two separate trusts would be set up. The assets of the surviving spouse would be transferred to the A trust, and an amount up to the estate tax exemption of the deceased spouse's assets would be transferred to the B trust; therefore, setting up two taxable trusts, with each trust entitled to use the exemption.

The B trust is subject to estate taxes, but with the applicable exemption, no taxes would be owed. The surviving spouse manages the A trust's assets and receives income from the B trust. Upon the death of the surviving spouse, the A trust would be subject to Federal estate taxes, while the B trust may continue for the benefit of the grantors' family. For example, assets may be divided into separate equal trusts for the grantors' children, who can then receive net income, and at a specified age, receive the principal.

In certain circumstances, the A/B trust arrangement can be an effective estate planning technique to help *both* spouses use their estate tax exemptions. But A/B trusts, tax rules, and regulations are also complicated. This is but one of a variety of strategies available to help protect family assets. Be sure to consult your estate planning team of advisors for more information about A/B trusts. ■

Living Together: Are There Strings Attached?

Unlike marriage, which involves numerous legal obligations and rights, a couple living together outside of marriage may be unaware of concerns unique to their domestic partnership, and could possibly face the following challenges over the course of their relationship: What happens when property is purchased together, or when one partner financially supports the other and then both individuals go their separate ways? What about assets accumulated while the couple lives together? Does a former partner have a right to such property? Suddenly, cohabitation could become more than a mere living arrangement and turn into an issue of asset protection or lifestyle preservation.

Untying the Knots of Obligation

Perhaps the most significant problem facing unmarried domestic partners is a potential claim to property, if and when the relationship ends. The issue of property rights can sometimes create major disagreements that, in some states, have resulted in **palimony** lawsuits.

continued on page three

living together: are there strings attached?

continued from page two

"Palimony," which means the division of property and/or support payments as a result of the break-up of two unmarried individuals, does not have its origins in the law. The media coined the term in the 1970s amid several high-profile celebrity lawsuits. Although palimony suits generally occur in a limited number of states, unmarried couples could learn valuable lessons from such cases when planning a life together. In states where palimony suits are prevalent, **cohabitation agreements** are an increasingly popular method for unmarried couples to clarify their expectations and obligations. The parties can determine how comprehensive the contracts need to be, taking into consideration their combined assets. When properly drafted, these agreements may be enforceable in a number of states.

A carefully written agreement can outline everything from how jointly owned property will be distributed to what support will be provided by one partner to the other, in the event the relationship terminates. Like any contract, a written cohabitation agreement should be prepared with the assistance of legal counsel to ensure that both parties' wishes are equally and fairly represented.

For whatever reasons, one or even both partners may not wish to enter into a formal agreement. If one party is of substantial means, a personal asset protection plan may be an option for that individual to explore in further detail. However, there are other ways to help avoid potential problems. For example, it may be unwise to purchase significant assets together, title assets in joint names, regularly give money to a partner (unless it is made as a "gift" using the annual gift tax exclusion), place money into a joint account, or use a partner's last name.

In today's tax environment, estate planning for unmarried partners is complex. Although such planning can be challenging, it may be less difficult if both individuals have a realistic understanding of their rights regarding asset protection and lifestyle preservation. ■

taking charitable giving to another level

continued from page one

charitable donations from your income taxes. A gift tax charitable deduction for the full value of the annual cash gift is allowed. This strategy creates a "win-win" situation for you and the recipient charity.

Know the Insurable Interest Laws

Regardless of your gifting strategy, be aware of the insurable interest laws in the state where the policy was originally purchased. Although the donor makes contributions to the charity in cash, which is then used by the charity to pay premiums on the life insurance policy, the life insurance policy insures the donor's life. Insurable interest is typically considered to be an interest based on family, marriage, or financial obligation; consequently, the charity's insurable interest in the policy may be called into question, thereby jeopardizing the tax benefit and placing the policy proceeds in the donor's estate. However, a case for insurable interest can be anticipated and incorporated into the trust documents.

The Best of Both Worlds

If you are charitably inclined and are seeking tax advantages, the gifting of life insurance can offer unique planning opportunities. The potential for charitable income tax deductions or an estate tax reduction, combined with supporting a worthy cause, may make this type of gift appropriate for you. Usually, such charitable life insurance gifting strategies can be accomplished with few legal challenges and little publicity. Careful planning, with the guidance of a qualified legal professional, can help ensure that your charitable life insurance program is structured according to your wishes. ■

How Much Can You Earn and Still Receive Social Security?

Retirees are often ready, willing, and able to start new careers that may earn them significant incomes during their years of "leisure." However, some individuals may feel that it is not worthwhile to work for wages, only to have to "give up" some of those earnings in the form of higher income taxes. As frustrating as that may sound, it is important to understand the fundamentals of Social Security income and taxation so you can make your retirement years more "golden" and less "taxing."

Income Limits: Paying to Work?

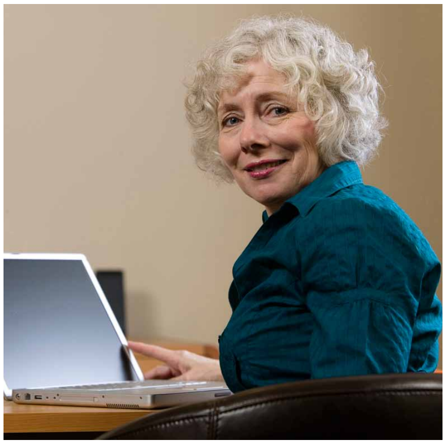
The first factor to consider is the Social Security "give-back." If you are age 62 or older, but still under the **full retirement age** (65–67 depending on your birth year), and receiving reduced Social Security benefits, you must "give back" $1 for every $2 earned above $15,720 in 2015. If you reach full retirement age in 2015, your benefits are reduced by $1 for each $3 earned over $41,880 in months prior to your full retirement age. When you reach your full retirement age, there is no limit on your earnings, and Social Security benefits are not reduced.

How Much Is Taxable?

A second factor affecting your Social Security income is the potential taxation of your monthly benefit. If you are working and also receiving a check from the Social Security Administration (SSA) each month, you must first determine how much, if any, of your benefit is included in your **gross taxable income.** The first step in estimating this amount is to add half of your Social Security benefits to all your other income, including any tax-exempt interest.

This total is then compared to a first-tier threshold of $25,000 for a single taxpayer or a married taxpayer who is filing separately and lived apart from his or her spouse for the entire year, or $32,000 for a married taxpayer filing jointly. For a married taxpayer filing separately, who lived with his or her spouse for any period during the year, the first-tier threshold is $0.

For illustrative purposes, suppose your total applicable earnings are $27,000, and you are married and filing jointly. Since the total does not exceed the applicable threshold amount of $32,000, then *no* portion of your Social Security benefit is taxable. However, if the



total exceeds the applicable threshold amount, further calculation is needed to determine the amount of your benefit that is taxable. For more information, refer to IRS Publication 915, *Social Security and Equivalent Railroad Retirement Benefits*, visit the Social Security website at www.ssa.gov, or consult your qualified tax professional.

Performing these calculations is no simple task. So, it is important to understand the potential tax consequences when thinking about receiving Social Security while still working, and plan accordingly. As with all tax planning matters, be sure to consult a qualified tax professional to help ensure that your planning decisions are consistent with your overall financial goals.