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February 6, 2009

Re: Estate Planning – Important Change in Illinois Law

Dear Client:

The law is constantly changing, particularly tax laws. This is one very good reason to review your estate plan periodically.

As a courtesy to our clients, we wish to inform you of an important change to the Illinois Estate Tax Law. Please note that this is a general information letter intended to explain a new estate tax law, and is not the result of a review of your individual estate planning situation.

In order to explain the law change, a basic explanation of estate tax planning is necessary. The planning is for married couples, and involves the use of a trust upon the death of the first spouse. The trust (generally known as a family trust or a credit shelter trust) is funded with the maximum amount that can pass free of federal estate taxes, which was \$600,000 until 1997, and the amount has increased steadily since then so that the present amount is \$3,500,000.

Until this year, Illinois law was consistent with federal law, meaning that the trust funding would not result in any federal or state estate taxes. However, due to a recent change in Illinois law, the Illinois estate tax exemption is limited to \$2,000,000. This means that if the maximum federal unified credit amount is used, up to \$3,500,000 will be given to the family trust. However, since Illinois only allows an exemption of \$2,000,000, there will be an Illinois estate tax payable on the amount in excess of \$2,000,000. The Illinois estate tax would be \$209,124 for a \$3,500,000 family trust gift.

The Illinois legislature is considering several possible changes to the law. It is impossible to predict whether any of the proposed changes will become law.

Also, payment of the Illinois estate tax under the circumstances described above could be good estate tax planning. This is because a larger amount is then exempt from estate tax at the survivor's death. To determine what is best for you requires a review of your documents. Then, it would be up to you to determine what, if anything, should be changed in your estate plan.

We want to be sure that you understand that the Illinois law could now result in an estate tax being payable upon the death of the first spouse. Since this estate tax payment would not have been planned for at the time that you created your estate plan, it is something for you to take into account. But you should also be aware that the estate tax laws are entering a time that could involve many changes, both at the state and federal level. For example, both the federal and state estate taxes are scheduled to be eliminated entirely during 2010. Then, in 2011, the estate tax laws will revert to a \$1,000,000 exemption again for both state and federal purposes, which would again result in no estate taxes being payable under your estate plan at the death of the first spouse. There will probably be other tax law changes on the horizon due to the change in administrations and to budget pressures.

So, if the possibility of paying any estate tax at the death of the first spouse during 2009 is a concern, then please contact us so that we can discuss any necessary changes. Otherwise, we recommend that you review your estate plan to determine whether any other changes are in order.

Sincerely,

Goedert, Huntington & DeBoer