family MATTERS

August 2010 ***Forward to a Friend***

Are The Rich In Danger?

No, they are not in danger. But a recent Wall Street Journal article (click here for article) posits, half-humorously, that the estate tax repeal this year and its return next year are "incentivizing death."

Last year, wealthy people who were terminally ill were encouraged to hang on until January 1st so that they could avoid the 45% federal estate tax hit. This year, by contrast, wealthy people who are terminally ill - or worse, their relatives - are incentivized to pull the plug on December 31st so that they can avoid that tax hit, which may be even higher in 2011. According to the WSJ article, this year "presents a bizarre menu of options for wealthy older people - and their heirs" and we might see some "truly gruesome" cases - including suicides and homicides! - in the next few months because of the huge difference between this year's and next year's estate tax rates.

What Next?

Congress is considering several bills that address the federal estate tax.

The McDermott bill allows a $2 million exemption per person with a 45% to 55% progressive tax rate structure.

The Sanders bill allows a $3.5 million exemption per person with a 45% to 65% progressive tax rate structure, which includes a "billionaire surtax" of 10% on the value of an estate over $500 million ($1 billion for couples).

Another proposal recently offered by Senators Kyl and Lincoln provides for a $5 million exemption per person (indexed for inflation) and a 35% tax rate, each phased in over ten years.

Another option remains - for Congress to do nothing. If Congress sits on its hands, the lifetime exemption will automatically return to the 2001 levels of $1 million per person and the tax rate will increase to 55%. Because the one-year cost estimates of reinstating last year's $3.5 million exemption and 45% tax rate (as opposed to allowing the 2001 estate tax structure to return) will range between $13 and $16 billion, there is a legitimate possibility that Congress will in fact do nothing.

Congress broke for summer recess this month without addressing the estate tax (or any of the Bush tax cuts that are set to expire at the end of 2010). It goes out of session again in early October. My view: As Senate gridlock continues, it is unlikely that Congress will take any action before the November elections, if then.

Stay tuned for next month's newsletter . . .

Tali Z. Klapach
Klapach & Klapach
8200 Wilshire Boulevard, Suite 300
Beverly Hills, California 90211
Tel. (310) 424-3144
Fax (310) 728-1779
Tali@KlapachLaw.com
www.KlapachLaw.com

About Tali Klapach

Tali Klapach is a partner at Klapach & Klapach. She graduated from Princeton University and Yale Law School and clerked for the Chief Judge of the United States Second Circuit Court of Appeals. After practicing law for seven years at two prestigious law firms in San Francisco and Los Angeles, Tali started her own practice in trusts and estates. The goal of Klapach & Klapach is to combine the high quality service of a big law firm with the personal attention and affordability of a family lawyer. Tali is committed to building long-term relationships with clients and to serving as a source of ongoing assistance and advice. To schedule a free estate planning consultation or to subscribe to this free monthly e-Newsletter, please visitwww.KlapachLaw.com or call (310) 424-3144. Estate Planning for a Lifetime.®

This newsletter is for informational purposes only and does not serve as legal advice or create an attorney-client relationship. Your place of residence, your particular circumstances, or changes in the law may affect whether the information in this newsletter applies to you. Please contact Tali Klapach for a free initial consultation if you would like to learn more about how to protect your family and your assets.

Newsletter Designed by Neala Steury, justneala@yahoo.com