From the desk of Jeanne M. Kerkstra, Esq., CPA

Viewpoint
Happy New Year! 2007Resolutions

Ring out the old, ring in the new. The more things change, the more things remain the same.

- The annual exclusion for gifts remains at $12,000. Note that for the calendar year 2007, the first $125,000 (up from $120,000) of gifts to a spouse who is not a citizen of the United States are excluded from taxable gifts.

- The unified credit for gift tax purposes remains at $345,800 with an applicable exclusion amount of $1 million.

- The unified credit for estate tax purposes remains at $780,800 with an applicable exclusion amount of $2 million.

- The maximum marginal estate tax rate decreases in 2007 to 45% (down from 46% in 2006).

Generally, we're all in agreement that the Holidays can be a stressful time. It can also be a time of reflection.

More importantly, come the 2007 Resolutions. It is important for us to be good listeners to our clients so that we may truly understand what they are getting at. For example, if a client comes in and says that for the New Year he or she is interested in shedding some pounds, don't necessarily think that they will be starting a new diet regime. They may be thinking of divorcing their spouse. The best divorce, like the best bankruptcy, is one that is well planned. If a client is truly becoming disenchanted with a marriage, then the period before filing a divorce decree is imperative for ***asset protection*** (the longer the period, the better).

Also, from the time spent together during the Holidays, you were able to see if people have picked up any new habits. Consequently, the start of a New Year is an ideal time for reviewing the selection of individuals appointed to key roles in the client's estate plan, including:

Under the Will, who has been named as Executor of the estate and Guardian of minor children?

Under the Revocable Trust, who has been named the Trustees? And depending upon who has been naughty and who has been nice, who were the beneficiaries and exactly what was the timing and amount of distributions they were to receive?

For Buy-Sell Agreements, there usually is a Certificate of Agreed Value. When was the last time that a valuation was made of the family businesses? Depending upon the direction that the business is heading, who is harmed and who is benefited by the last agreed value?

Also relating to Buy-Sell Agreements, how are the children’s marriages? Are they creating friction or benefiting the dynamics of the closely-held family businesses? Equally important, what type of estate planning and asset protection structures do the children of the clients have in place?

What about the clients who have yet to start the asset protection and estate planning? If a client doesn't have an estate plan in place upon his death, there are various laws in place that will gladly make decisions for him, although they most likely will not be the ones that he would have made on his own.

It's a New Year. Is the time right for a change? The only way to find out is to have the client take a look at the documents in place (or the lack thereof) and ask himself: Is this what I want to have happen when the time comes? If so, leave it. If not, change it. We are here to assist.

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