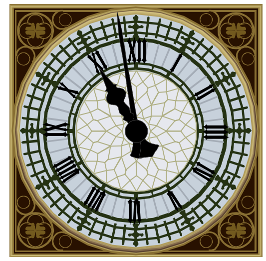
Summer 2004, Vol. 11, No. 3

Two Minute Legal Update



ROBERT T. NAPIER & ASSOCIATES, P.C.
www.napier.com

208 South LaSalle St., Suite 2070, Chicago, IL 60604 / Phone: (312) 701-0300 / Facsimile: (312) 372-5727
1900 East Golf Road, Suite 600, Schaumburg, IL 60173 / Phone: (847) 995-0011

THE GARAGE IS BUILT; IS THE CAR PARKED INSIDE?

You have built an estate plan designed to protect yourself and your loved ones. The plan is supposed to shelter every last dollar of exemption from estate tax, kind of like a garage for a car. So why do many people with fine estate plans still pay unnecessary - even voluntary - estate tax?

The IRS presumes you will not use all of your exemption; if you fail to use your exemption, you lose your exemption. So who would go to all the trouble of dealing with professionals, paying fees, and enduring jargon-filled lessons on planning, only to waste their exemptions on estate tax? Sadly, that is just what far too many people do.

The IRS is delighted to offer taxpayers the exemption since very few bother to use it - even though they actually think they are. Quite often intelligent, successful people sign their estate plan and leave it in a drawer or safe-deposit box for the next few years. They leave their assets titled in joint tenancy or in a land trust - both of which typically ignore the estate plan.

Imagine a husband and wife with a $3 million account. They pay thousands for an estate plan and then leave their asset titled as they had before, in a joint tenancy account. Eventually, one of them will bid this world adieu, leaving the entire account to the surviving spouse. In 2005, the cost of this neglect is well over $700,000 since their entire account will be taxed in the surviving spouse's estate.

Another common estate tax generator involves the family with a net worth in excess of $5 million. That family will often build a basic estate plan and even go to the trouble of re-titling their assets to ensure that each spouse utilizes his or her exemption. Then they stop. This is akin to building a two-car garage to protect a ten car fleet.

The IRS smiles like the Cheshire cat as over half of all estate taxes are paid by those families with assets exceeding $5 million. Imagine a family with $20 million that does just the basic planning which utilizes the exemptions available to both spouses. Their loved ones pay about $8 million in unnecessary estate tax.

To avoid this result, all they needed to do was plan for the assets beyond the $1.5 million exemption amounts.

What should you do? Act, by building the correct estate plan with enough garage bays for you.

Quips and Quotes

"Father, you're treating me like a child."

—Olivia Napier, the child pictured in the middle of the picture below, quoted at age 11.

A memorial to Bob's brother, Bruce Napier, was recently rehabilitated and rededicated at Marmion Academy in Aurora. Pictured are Bob's family and his mother at the far left of the picture. Much of the costs of the project were contributed by a family dear to Bob and our firm.