Shipman & Goodwin LLP

Legislative Update

February 2009

GOOD NEWS: REQUIRED MINIMUM DISTRIBUTIONS WAIVED FOR 2009

Due to recent federal tax legislation, owners and designated beneficiaries of IRAs and participants in tax-qualified defined contribution retirement plans (such as 401(k), 403(b) and 457(b) plans and profit sharing plans) are not required to take their "required minimum distributions" (RMDs) for 2009. Specifically, the legislation allows IRA owners, participants in qualified plans and designated beneficiaries (including trusts) to avoid withdrawing all or a portion of their RMD for 2009 if they so desire. In doing so, the participant or IRA owner can defer the income tax associated with the withdrawal and avoid selling securities to raise the cash required to pay the 2009 RMD. This waiver will be particularly useful and applicable to those individuals who have other income sources available and wish to preserve IRA or qualified plan assets. Of course, if a participant or beneficiary wishes to withdraw the 2009 RMD, the participant or beneficiary may do so.

Individuals Who Attain Age 70½ in 2009

An individual who attains age 70½ in 2009 (or retires in 2009 after age 70½, under a retirement plan that so permits) normally would be required to receive a 2009 RMD no later than April 1, 2010. Even though that date does not fall within 2009, the waiver applies because the first RMD in this case is a 2009 RMD. Thus, the individual's first RMD must be made by December 31, 2010.

Individuals Who Attained Age 70½ in 2008

The waiver does not apply to the first RMD payable to an individual who attained age 70½ during 2008. Although the individual's required beginning date is April 1, 2009, the first distribution is actually a 2008 RMD (attributable to the year the individual attained age 70½) and therefore is not covered by the 2009 waiver. The distribution still must be made by April 1, 2009. Absent the Act, this individual also would be required to receive an additional RMD (for 2009) no later than December 31, 2009; the Act waives the requirement to receive this 2009 RMD.

CONNECTICUT ESTATE TAX UPDATE

We have noted in prior client newsletters that Connecticut has revised its estate tax law in response to changes to the federal estate tax law. The good news is that the federal estate tax exemption has been increased from $2 million to $3.5 million in 2009. The bad news is that the Connecticut estate tax exemption remains at $2 million. Because the federal and Connecticut exemption amounts are no longer aligned, revisions to estate plans for married couples who are Connecticut residents may be required to avoid a Connecticut tax at the first death.

Many estate plans for married couples are drafted to take advantage of the federal estate tax exemption of the first spouse to die by creating a trust for the survivor which will be sheltered from taxation in the survivor's estate. This planning can result in a couple's passing up to $7 million free of federal estate tax to their beneficiaries. However, the current discrepancy between the federal and Connecticut estate exemption amounts means that, absent revision, some estate plans for Connecticut couples may result in a significant Connecticut estate tax imposed at the death of the first spouse even though there would be no federal estate tax due.

More Good News!
Effective January 1, 2009, the maximum annual gift tax exclusion was increased to $13,000 per donee.

Not all estate plans are impacted. If yours is, there are several ways in which we can revise your estate plan to address this issue - to avoid the Connecticut tax, reduce it, or at least to defer the decision as to whether to pay or defer the tax until the death of the first spouse. As in all areas of estate planning, the right approach to this issue and the necessity of revisions to your estate plan depend upon the facts of your unique situation. Please contact your attorney in the **Trusts and Estates Department** to discuss whether revisions are necessary to your estate plan documents to address the Connecticut estate tax issue.

QUESTIONS OR ASSISTANCE?

If you have any questions about this legislative tax update, please contact Danielle Ferrucci at (860) 251-5105 or you may contact any member of the Trusts & Estates Department.

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