

Vermont Estate Tax Alert!

Jack Davidson

“IMMEDIATE ACTION REQUIRED”



We all get those promotions in the mail with the above notice. Well, this one may be real.

If your estate, or combined estate for married couples, is reasonably under 2 million, or you do not reside in Vermont, read no further. You will not be affected by recent

changes in Vermont's estate tax. Otherwise, read on.

Effective January 1, 2009, Vermont has decoupled from the Federal estate tax, thus freezing the Vermont exemption at 2 million. Most estate plans designed for larger estates utilize a tax strategy for married couples that employs an exemption trust calculated on the Federal exemption, which is currently \$3,500,000. And here lies the problem which I will simply illustrate by an example.

Let's say the combined estate for a married couple is \$2,300,000 and that the first spouse to die has all the assets in his or her name. Federal Tax: \$0. State Tax: \$122,800.

How do you avoid this tax? It's very easy. Go to your attorney and he or she will make a slight change to your trust language to save much or all of this tax. For combined estates up to \$4 million you can avoid the tax completely, thus saving as much as \$379,200 in State and Federal taxes, with a minor adjustment to the trust language. In fact, you can save the tax without

even modifying your trusts if the spouses simply split their assets so that each spouse does not have more than 2 million in their name. But we don't recommend this as the principal strategy. Over time, due to changes in market value or other events, couples often find it cumbersome to effectively monitor how much each spouse owns. There is too much at stake not to modify your trust documents.

What if you are single? You may want to consider gifting now rather than later. Say your estate is worth \$2,100,000. If you gift \$100,000, using the Federal yearly exclusions, you will save \$45,000 in Vermont estate taxes. Will the gift be subject to gift taxes? Probably not. The Federal exemption is one million and, oddly enough, Vermont may not have a gift tax, depending on the size of the estate.

Whether you make gifts now, or alter estate planning trusts, I think you will find that it is well worth your effort to contact your attorney today. Or call us. "Immediate action required." There could be significant dollars at stake.

Note: These illustrations assume no asset growth and that taxpayers are domiciled in Vermont. Disclaimer trusts will probably not need modification. For combined estates above \$4,000,000, the trust modifications can be quite complex. Lastly, and curiously, Vermont did not decouple from the Federal generation tax exemption of \$3,500,000.

A variety of legislative changes were enacted in Vermont recently that could affect our clients. The estate tax threshold we discuss above. Future newsletters will address the Vermont Trust Code, capital gains tax changes, Probate Court reform and an update of the default statute on descent and distribution to encompass blended families.