



Limbo,

Where Art Thou?

The Vatican is thinking of doing away with the concept of Limbo as a spiritual place awaiting some of the multitude. We hope that Congress will consider following suit for those with estates above \$1,000,000 who are contemplating the impact of their passage to the hereafter. Although the current Federal Estate Tax exemption is now \$2,000,000, and due to increase in increments to infinity in the year 2010, it returns to its less lofty level of \$1,000,000 in 2011 if there is no agreement on high. Recent efforts to repeal the Estate Tax were derailed by an Act of God, Katrina. Consequently, we are still in limbo inasmuch as supporters and opponents of repeal seem to agree that an exemption of an amount above 1 million is desirable.

Married couples using Bypass Trusts can effectively double their exemption. That is to say, if the exemption is 1 million, they can avoid estate taxes on a combined estate of 2 million. If Congress settles on a 2 million exemption, then estates under 4 million can pass tax-free. What do you do? If you are married and your combined estate is \$2,000,000, do you forego the Bypass Trust on the theory that you will not have taxes to pay, or do you create it anyway?

There are a lot of good non-tax reasons for a Bypass Trust. The spouse and perhaps the children are provided for, and the assets are protected from creditors, subsequent spouses, and spendthrift behavior. Nonetheless, even if you use your surviving spouse and/or children as trustee, you have probably saddled one or more family members with the need for specialists. And specialists cost money. We like to think that knowledgeable and efficient specialists such as the Trust Company of Vermont tend to bring more value than cost, however red tape of any sort may not be something that you want.

In this period of limbo, you may want to consider a special type of Bypass Trust, a Disclaimer Bypass Trust. This type of trust typically allows the surviving spouse to make the determination of how much, if any, of the family assets will go in trust. The “disclaimer” needs to be made within 9 months of death and is subject to one or more pitfalls, so contact your estate planner or give us a call to learn more.

Also, you may want to consider that there is another type of limbo. It's the dance limbo with the calypso music in the background, whereby the bar gets lower and lower. So we may descend to one million, or perhaps, lower. A Disclaimer Bypass Trust may allow you to go on a Caribbean cruise worry free.