

"IT TAKES A NOBLE MAN TO PLANT A SEED FOR A TREE THAT WILL SOMEDAY GIVE SHADE TO PEOPLE HE MAY NEVER MEET." – David Trueblood

Don't Be a Victim of Estate Planning Paralysis

Are estate taxes really eliminated for 2010? Will Congress reinstate the tax retroactive to January 1? Would retroactive changes survive a court challenge? Starting in 2011, will the estate tax affect estates as small as \$1 million, with a top rate of 55%? Are capital gains taxes a bigger concern this year than the estate tax would have been? The answers aren't clear.

Because Congress failed to enact estate tax legislation before January 1, the estate tax is technically eliminated for 2010. But if estates pass estate tax free in 2010, capital gains tax may still be a problem. The former step-up in basis for all estate assets to the date-of-death value has been replaced, with only \$1.3 million of total step-up, plus another \$3 million for spouses. The gift tax is still in effect for 2010, but the top rate on taxable gifts is 35%, compared with 45% prior to 2010. The \$1 million lifetime exemption is unchanged.

Confused? So are estate planners. But that doesn't mean you should do nothing about your current estate plan. For the vast majority of married couples, the \$4.3 million capital gain step-up is more than sufficient to avoid tax. But other portions of your will or living trust may need to be

modified to cope with the current uncertainty. For example, your estate plan should provide for contingencies such as retroactive estate tax changes. If

capital gains are a concern, you might choose appreciated assets for a bequest to St. Norbert College – but only for 2010. Your attorney should also determine whether any formula clauses in your will still make

sense in light of the temporary estate tax repeal. It's quite possible that you'll need to make changes in 2010 and again in 2011, or when Congress changes the law, if earlier.

When making changes to your estate plan, St. Norbert College encourages you to consider ways to continue the support you have given during your life, through a bequest. You can make a specific bequest of a sum of money or item of property, a percentage bequest of your estate or residue, or a contingent bequest in the event your primary beneficiary is no longer alive. You can also name St. Norbert the beneficiary of a retirement account, which saves income tax, or the beneficiary of life insurance. It's even possible to reserve income for life for family members from your thoughtful bequest. We'd be happy to work with you and your attorney on any gift for St. Norbert College as you craft your estate plan.

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Gift Tax on Birthday Presents?

Did you file a gift tax return for the value of the birthday presents you gave last year? What about the used car you gave your son when he went to college? Or graduation presents to your grandchildren?

Few people would dream of filing gift tax returns for these kinds of gifts – and in most cases a return is unnecessary. But there are some situations where returns are required.

Federal tax law permits annual gifts of up to \$13,000 (adjusted annually for inflation) to as many people as the taxpayer wishes, with no gift taxes due and no tax return required. Estate planners often recommend that clients with estates that will be subject to tax make annual gifts as a way to reduce or even avoid estate taxes.

For example, a widower with three children and four grandchildren could reduce his estate by \$91,000 each year through annual gifts to his family.

Married couples may make tax-free gifts of up to \$26,000. But anyone considering \$13,000 (or \$26,000) gifts should use caution to avoid inadvertently exceeding the tax-free limit. Gift taxes are based on the total annual gifts you make to an individual, including birthday, holiday and wedding presents. Because the vast majority of taxpayers make gifts well within the \$13,000 limit, they usually needn't worry about filing gift tax returns.

Donors who make gifts of hard-to-value assets such as closely held stock, real estate or collectibles may want to file tax returns, even if they believe the value of the gifts is less than \$13,000. Filing a return starts the running of the statute of limitations for the IRS to challenge the value. Without a return, the IRS can seek to revalue the assets years later, when establishing the value in the year of the gift could be exceedingly difficult.

Two Exceptions to the \$13,000 Limit

There are two expenditures that aren't considered taxable gifts: payments for medical expenses and tuition paid for another individual. Payments must be made directly to the health care provider or school, not to the individual. These exceptions offer further opportunity for people with potential estate tax exposure to reduce their estates



without gift tax liability. A grandparent, for instance, could pay the health insurance premiums or the college tuition for grandchildren, in addition to the \$13,000 in gifts. Also, Section 529 plans allow a \$65,000 exclusion where donors elect to treat a gift as made over five years. Remember, too, that gifts spouses make to each other generally are tax free – and any gift to St. Norbert College is 100% deductible for gift and estate tax purposes.

Saving . . . Then Spending

In building a retirement nest egg, it's important to decide whether you plan to live solely off the earnings of your savings or whether you plan to dip into principal during your retirement years. You may be able to get by with less in retirement savings than you think.

For example, if you need an extra \$15,000 of income each year to supplement Social Security and other income, you could build retirement savings of \$500,000. Assuming the funds earn 3% interest, you'll have \$15,000 (disregarding income taxes) each year, without ever touching the principal. But you'd need a fund of only about \$300,000 invested at 3% to give you the same \$15,000 if you withdraw principal, assuming your fund is to last for about 30 years.

Many retirees take a middle ground. They live off earnings from retirement savings to the extent possible but dip into principal if the rate of return on savings drops or if inflation erodes the buying

power of their income. Ask yourself a few questions before deciding how you want to "spend" your retirement:

- Do you want to preserve assets for family members? If you dip into principal to support your retirement, there will be less to pass to children or grandchildren.

- Can you make the switch from saving for retirement to spending during retirement? Some lifelong savers may find it difficult to make the abrupt change and scrimp needlessly.

- What other sources of income do you have? Determine how much of the income you need will come from Social Security, annuities and retirement plans that pay income for life, no matter how long that might be. Consider using some assets to purchase an annuity that will shift your risk of "living too long" to the issuer of the annuity.

An Annuity with St. Norbert College

St. Norbert College offers charitable gift annuities that provide payments for life for one or two individuals. As with all annuities, a portion of your annual payment is tax free. However, charitable gift annuities offer several advantages not available with commercial annuities:

- A thoughtful gift to St. Norbert College.
- You can fund your gift annuity with appreciated securities. Not only do you avoid the capital gains on the gift portion of your annuity, but part of your annual payment will be favorably taxed at capital gains rates.
- You can claim an income tax charitable deduction for a portion of what you transfer – generally 40% to 60%.

Please feel free to call our office if you'd like more information about the advantages of supporting St. Norbert College through charitable gift annuities.

Gifts from IRAs Likely to Return for 2010

Both houses of Congress have voted to renew the tax provision allowing IRA owners age 70½ and older to make tax-free distributions to charity. The bill is awaiting final action by a House-Senate reconciliation committee and signature by the president.

Qualified charitable distributions (QCDs) avoid the income tax that is usually owed on funds withdrawn from IRAs. Account owners may give as much as \$100,000, with the gifts satisfying required minimum distribution amounts. There is no charitable deduction allowed.

For account owners who are over age 70½ and who planned to take advantage of the opportunity to switch from a traditional IRA to a Roth IRA this year, it might make sense to leave any QCD amount in the traditional IRA. The account custodian can make payments directly to charity without the income tax that would be owed on amounts converted to a Roth.

We'd be happy to provide you with more information on making an IRA gift to St. Norbert College. Please check with our office before making a distribution.

Preparing to Be a Surviving Spouse

Every wife and husband realizes the inevitability that one of them will outlive the other and perhaps spend many years as a widow or widower. Spouses should prepare for life without their marriage partner – to be ready when the time comes not only to handle the details and decisions that follow a spouse's death but also to deal with financial and practical matters.

St. Norbert College has a new 20-page booklet on this subject, *When the Time Comes*, that we encourage every married couple to send for – just return the enclosed card. We hope you will feel, as we did, that this booklet is an important and thoughtful presentation that can help surviving spouses through a difficult time.

Our new booklet emphasizes the need for husbands and wives to make plans for mental or physical incapacity. Each partner should have a living will or health care power of attorney that provides guidance for doctors and family members on medical treatment. Most importantly, our new booklet enables spouses to organize information that will be needed at death: listings of people to contact, vital documents and important telephone numbers.

We hope you will send for *When the Time Comes* and believe you will find the information contained is extremely practical and full of down-to-earth suggestions. We look forward to hearing from you and hope that you will consider including St. Norbert College in your estate plans.



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