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Special points of interest:

- Business Planning
- Tax Consequences for the Self-Employed
- Lifetime Gifts

Business, Estate, and Tax Planning

STONE & ASSOCIATES, LLP

Business Planning

During economic conditions such as those we are facing, many of our clients are taking advantage of this period to catch their breath and review their entity structure, liability and asset protection and plan projects.

The last five years provided such a booming economic environment in Texas that business owners did not necessarily take time to review fundamental asset and liability protection issues. An annual review of asset protection strategies to account for changes in laws or the acquisition or disposition of assets is vital to the maintenance of any successful business. The costs of failing to review are typically greater than the costs of keeping such strategies current. Common reviews consist of: 1) proper ownership of real estate; 2) client's needs for a new entity for to protect assets and limit liability; 3) the need for Buy-Sell Agreements for business succession; 4) whether a conversion to a new entity will provide greater asset protection; 5) spinning-off a service division from the operating division to better protect assets; 6) ensuring proper entities owned acquired property; and 7) renewing tax elections.

Moreover, during this down economy, many businessmen are contemplating merger and acquisition transactions to boost sales, increase revenue, and expand. Such planning requires careful consideration of the acquisition structure, confidentiality and non-disclosure, tax elections, new entities, employment agreements, and payment aspects. Likewise, many clients are selling their business and have related concerns.

All in all, 2009 is a good a year to review one's business structure and planned projects.

Who Needs a Will?

The short answer to this question is: everyone that owns titled property. Examples of titled property include real estate, closely held business interest, investment/ checking/savings account, vehicles and even lawsuits. When a loved one dies, title to the decedent's property passes to the beneficiaries under the decedent's will or to the heirs-at-law if the decedent died without a will. However, there must be an actual transfer of ownership of the property by proving the will in court or, if there is no will, by having a court determine who are the decedent's heirs. The latter is expensive, time consuming and puts control in the hands of the court instead of the testator

With a will title to property passes immediately at death, the assets of the estate are subject to the control of the executor or administrator of the estate for the purpose of settling the debts of and claims against the estate. A will provides a streamlined process to ensure proper transition of titled assets.

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Lifetime Transfer of Wealth

“Currently, you can give up to $13,000 per person

Lifetime gifts are generally better than testamentary gifts when transferring wealth. Think of it this way: Picture four quarters on the table in front of you. If your client dies with all four quarters, his or her heirs are left with two quarters and two are paid to the federal government in the form of taxes. Instead, move two quarters aside, representing a lifetime gift to your clients' loved ones. Now, take 50% of the remaining two quarters (one quarter), and move it to the other side of the table, which represents the gift tax owed. Look—there is still one quarter left to transfer to loved ones, and with two quarters already transferred to them!

Currently, your clients can give up to $13,000 of cash or property each to any number of persons in a single year without incurring a taxable gift ($26,000 for spouses "splitting" gifts). Anyone can give away a total of $1 million during his or her lifetime before any out-of-pocket gift tax is due.

Tip: Make unlimited payments directly to medical and educational providers on behalf of loved ones. Such payments are not gifts and preserve the $1 million lifetime exemption.

The lucky recipient of the gift owes no gift tax or income tax. Your treat is seeing the enjoyment of your gift, plus transferring future appreciation on the gift to the beneficiary, outside your estate.

Your client can magnify gifts over time by gifting in conjunction with a Life Insurance Trust or trust for children. Trusts are commonly used with gifts and provide a level of protection and control over the gifted property.

“Make unlimited payments directly to medical and educational providers on behalf of your loved ones”

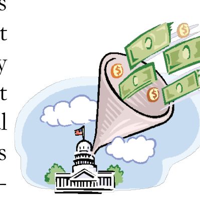
How to Not Leave Money A Client’s Ex

People die and inadvertently leave sizable portions of their estates to ex-wives or ex-husbands, or to people they haven't seen for 30 years. Such miscues may seem unbelievable, but it's easy to let them happen. And it's easy to make sure they do not happen.

Don't permit your clients’ money and benefits to fall into the wrong hands. The solution is simple—review all insurance policy and retirement plan beneficiaries on a regular basis. Under normal circumstances, a complete review every year or two should be sufficient, but you'll want to make sure you conduct a special review any time a major life event for your client occurs, including (1) Marriage; (2) Divorce; (3) Birth of a child; (4) Death of any known beneficiary; (5) Loss of a parent or someone else who has depended upon your client financially; and/or (6) Change in state of residence.

Employer Taxes

Whether your client plans to start a business with employees or currently operates a business with employees, the client must understand tax responsibilities as an employer. Clients with employees are responsible for several federal, state and local taxes. An employer, must withhold Federal income tax, Social Security and Medicare taxes, and Federal Unemployment Tax Act (FUTA) taxes. The form of entity and tax elections determines the extent to which taxes apply and how to remit them. Four general types of business taxes may apply to your clients: (1) Income tax (2) Self-employment tax; (3) Employment taxes; and (4) Excise taxes. The type of entity and various tax elections effect each tax. You should be conversationally familiar with all of them to give the best advice to your client, but know we are always here to help.



STONE & ASSOCIATES

Attorneys At Law

Tax Consequence of Self-Employment

"The self-employment tax rate on net earnings is 15.3 percent (12.4 percent of this rate going to Social Security and 2.9 percent allotted to Medicare "

Individuals must pay self-employment tax if they have self-employment income. If an individual files a Schedule C as a sole proprietor, independent contractor, statutory non-employee, active partner in a general partnership, or member of an LLC that does not have a corporate tax election, the income listed on the individual's Schedule C is self employment income and must be included on Schedule SE, which is filed with the Form 1040. Schedule SE is used both to calculate self-employment tax and to report the amount of tax owed. The self-employment tax rate on net earnings is 15.3 percent (with 12.4 percent of this rate going to Social Security and 2.9 percent allotted to Medicare). Self-employed individuals have a number of income tax planning opportunities such as the shifting and timing of income, retirement planning, and business expense deductions. The key to business success from a tax point of view is not how much your client makes but how much your client gets to keep after taxes. Tax law provides deductions and credits to enable the self-employed individual to reduce the amount of profits on which he or she pays tax. Deductions are valuable because they minimize the amount of income on which to figure income tax. Credits are even more valuable, because they reduce income tax bills on a dollar-for-dollar basis. Tax law also provides pitfalls for the unwary self employed individual. One such pitfall arrives in the form of estimated tax payments. Federal income tax is a pay-as-you-go tax. You must pay the tax as you earn or receive income during the year. You generally have to make ETPs if you expect to owe tax of $1,000.00 or more. As an employee of a company, the company withholds ETPs and the employee does not have to worry about it. Most business owners and self employed individuals, however, must make ETPs themselves because they are the employer and employee. Self-employed individual's tax obligations are substantial, so keep an eye on tax responsibilities.

The Weight of Self-Employment Tax

Featured Attorney

Jay Knighton, a native of Corinth, Mississippi, joined Stone & Associates, LLP in February 2004 and is now managing partner of the firm. Jay earned his Bachelor of Accountancy in 1998 from The University of Mississippi. As one of the top 24 graduating students, he was awarded a Marcus Elvis Taylor Medal. In 2001, he earned his law degree (Juris Doctorate) from Tulane University School of Law. In 2002, he earned a Masters of Laws in Taxation (LL.M. in Taxation) from The University of Florida, one of the top tax programs in the country.

An active participant in the Woodlands area community, Jay serves as team lead for the Young Professional Association for the South Montgomery County Woodlands Chamber of Commerce and will serve on the Economic Outlook Conference Committee in the upcoming year. In 2007, he ended his two year tenure as the President of the University of Mississippi Houston Alumni Association, which has over 3,000 alumni.

Jay frequently teaches continuing education to financial planners, CPAs, life insurance agents, and Realtors in estate planning, business planning, taxation, and probate seminars in the Houston area.

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Business, Estate, and Tax Planning for Generations

Stone & Associates, LLP's practice focuses on estate planning, probate and estate administration, business law, tax planning and controversies, and business litigation. Additional credentials such as Certified Public Accountant (CPA) and Masters of Laws in Taxation (LLM), combined with years of practical experience, make our attorneys uniquely qualified to address the business and tax issues inherent in these areas of law.

Our clients desire to minimize taxes and protect their assets, with the ultimate goal of maintaining and preserving wealth for themselves and future generations. We lead our clients through the complex maze of Federal and State laws to this ultimate goal.

The four attorneys of Stone & Associates, LLP, frequently present continuing education seminars to certified public accountants, certified financial planners, and licensed insurance agents. We explain complicated tax laws in an understandable manner that our clients and other professionals appreciate. Not surprisingly, Stone & Associates, LLP, has quickly become the firm that professionals turn to for their clients' estate planning, taxation, and business law needs.

This newsletter has six short articles that discuss hot topics in estate planning, taxation, and business law. The articles give you an overview on these topics so that you can better assist your clients and their needs. As always, we are here to serve as a resource to you and your clients, so please call or e-mail if we can be of help.

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