

STRAUSS & MALK LLP NEWSLETTER



The law firm of Strauss & Malk LLP announces our new electronic newsletter. It will be issued periodically; informing you of various matters we believe to be of interest. We want to provide our clients and friends with up-to-date information regarding important topics. We are available to assist you with legal needs in any way possible.

ABOUT THE FIRM

AREAS OF PRACTICE

ATTORNEY BIOS

INTERNAL REVENUE SERVICE

ILLINOIS ESTATE TAXES: IT ISN'T ALWAYS PRETTY

In 2009 Illinois entered a new era, following many other states in reaction to the Federal Economic Growth Tax and Reconciliation Act (2001). That Act eliminated the estate tax revenue that the federal government shared with the states. In response to this revenue reduction, Illinois and a number of other states established a separate state estate tax. This “decoupling,” typically causes a larger overall estate tax. Also, beginning in 2009, the “decoupling” will result in an Illinois estate tax on the first spouse’s death (which was avoided under prior state tax laws with proper planning) for any assets over \$2 million. This amount includes life insurance not held in an irrevocable trust, retirement benefits, as well as one-half of all spousal joint tenancy property.

When Illinois changed its laws, we created model trust provisions to permit the executor and/or surviving spouse maximum flexibility to either pay state estate taxes at the first spouse’s death or to avoid such taxes but potentially pay a larger federal tax at the second spouse’s death. Because of the numerous factors that must be considered in reaching this decision (such as the then available “applicable

exclusion” [exemption from estate tax] amount in the year of death, the total value of the estate, the value of assets in a decoupled state and the health of the spouse) we generally suggest that clients give the executor, trustee and/or surviving spouse the flexibility to make this decision after the first spouse’s death, when more information is known. Although not a cure all, legislation is pending which may add an Illinois QTIP election, providing even more flexibility for the executor and/or surviving spouse.



No change to your estate plan may be necessary if you are not married and/or had a new plan prepared by our office in or after 2005. However, to ensure that you take advantage of the Illinois Estate tax saving and/or deferral opportunities, and which potentially may become available, we suggest you contact us to review your estate plan and determine whether an amendment or a broader update is warranted.

“Certainty? In this world nothing is certain but death and taxes.”

Benjamin Franklin

“But we can help with the latter....”

Benton C. Strauss

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Nothing on this page is intended to and cannot be used as legal advice.