Life Planning Newsletter
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In this issue:

This newsletter is a bit late because I was waiting for some indication as to the 2011 estate tax plan. If you have been keeping up with it you know that the Bush Estate Tax changes expire at the end of this year with the result being that only the first million dollars for an individual is passed on tax free. This year there is no estate tax but only the first 1.3 million plus a special spousal amount gets stepped up basis for capital gains taxes. for singles anything over 1.3 million is taxed at 33%. The current status is that most democrats want to revert to the 1.0 million we had in 2002 other democrats want to keep the 3.5 million dollar level of 2009 and the 1.3 million dollar limit on the stepped up basis. The Republicans want to eliminate Estate tax entirely and eliminate the 1.5 million dollar limit for capital gains. It is the classic envy versus greed position taken by each party and usually we middle class get it from both ends. However, because of the tea-bagger influence, the current administration has lost so much favor with the voters and because congress in its entirety has lost even more credibility it is difficult to say what will happen this year. Therefore, you probably need to review your estate plan at this time to make sure it is flexible. The one thing we know is that the California and federal governments are broke and they are both looking for ways to raise revenue. Which brings us to the main topic of this newsletter.

ASSET PROTECTION IN A NUTSHELL

There are two types of asset protection. The first deals with reducing your tax liability so that you keep what you earn. The second type deals with preserving your assets in case you or your beneficiaries are sued.

TAX AVOIDANCE THE LEGAL WAY.
Many of you don't realize the staggering amount of tax the government gets from you. The easy part is income, capital gains, and estate tax. That takes about 50% on the average Federal and State. But you may not realize that between the phone, sales, excise and embedded taxes (taxes embedded in the cost of everything you buy) you really are paying about 70% tax to the state, federal and local governments. If you buy something from say Japan you also pay import duty tax and tax to the government of Japan. Tax Tax Tax. What is being done to you now makes what the Pharaoh did to the Jews child's play. They thought 20% was robbery and it is. But 70%? It takes that to fund the world's largest employer, the US government. The strategy here is to not earn money. That is hard to do if you work for someone else but if you are smart you will work for yourself. Another way to beat the taxman at least for now is to have rich grandparents who invested the maximum into a Roth IRA then never withdrew any of it then died before 70 and then named you the beneficiary. That way it

grows over your life tax free and you only need withdraw a small amount each year of mostly tax free growth money.

So how can you pay less tax? One way is to move to a state with no income tax. Texas, Nevada, Washington, Tennessee, Florida and the like. If you might inherit a large amount of money you should move out of those 11 states that still collect death tax (see earlier newsletters at www.jabusse.com) for those states.

Another popular way is to establish your own business then incorporate. One needs to be careful though not to be fooled by those outfits (mostly on line or presented at your church) that say incorporate in one state (mostly Nevada) and you can avoid California Tax. California collects tax on corporations if they do business in California so what usually happens is that the poor person who thought they were scamming the government gets audited 5 years later (There is no statute of limitations on this deal) and has to repay the tax with a huge penalty. And you can't even go bankrupt on it.

There are three types of business forms that afford some tax relief (at least for now). Also each of these forms provide some asset protection in that if you follow the rules and operate your business as a business only the business assets can be attached by a successful creditor. More on this later. The LLC can be treated tax wise either as a corporation paying corporate tax on income and dividends or as a pass through entity that pays no tax but passes the profits and losses to the owners and each owner declares the P or L on their individual tax returns. A highly profitable company with lots of owners could benefit the owners if their tax rate was lower than the rate the company would be in. Also the company does not have to pay out anything. So say if the company bylaws said it could not pay anything to an owner who was being sued as an officer of the company or as a shareholder, that creditor could not collect from the company. Finally corporate tax rates are played around with by the government to incentivize certain businesses. So they allow certain investments and even lower the tax rate accordingly. Some call this incentive corporate loopholes or worse but it is done to promote business activity. One may look at the opportunities for investment or actual start-up of those privileged businesses. S corps are similar to LLC's with the major difference being the limits on who can be a shareholder (Aliens may not be shareholders of an S-Corp). By the way, imagine H marries W a British citizen and moves to England. H owns 55% of HH enterprises, a New York S-Corp with assets and income in the millions. H wills all his stock to W then dies. W can't own the stock. She either disclaims it or HH enterprises must be wound up and closed. There are other options but they depend on where HH is incorporated.

C-Corps are a bit more complex but have numerous advantages. They pay the corporate tax rate and can not simply pass through the profit to the shareholders. Aliens can own C-Corp stock and the C-Corp is allowed numerous deductions and benefits that S-Corps (who pass through the income) are not allowed to have. These benefits usually take the form of perks to the officers that translate to non taxable benefits. C-Corps can have under funded retirement plans, can purchase insurance for the officers, can pay medical bills through special programs, and fund 401(k)s and IRA's which can not be attached by creditors or can not be discharged (the whole 401(k) can not be discharged but only 1.5 million dollars of an IRA are immune in a bankruptcy). Which brings us to the second form of asset protection. Something I like to call Artificial Impoverishment, Or a Janice Joplin would say "If you ain't got nutin you got nutin to lose." To accomplish that legally you need to see a knowledgeable attorney who can look at your total assets. There are no general ways to do it and because the laws constantly change what is good today may not be good tomorrow.

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