



Toscani & Lindros, LLP

Toscani & Lindros, LLP
Attorneys at Law

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NEW ESTATE AND OTHER TAX LAW CHANGES

With the Dec. 31 deadline looming for the expiration of the Bush-era tax cuts, the White House and Congressional Republicans agreed to a deal which has been enacted temporarily extending the tax cuts and provides a little stability for the next two years.

Over the last 9 years the Federal Estate Tax exemption increased from \$1 million to \$3.5 million and the top tax rate dropped from 55% to 45%. The Federal Estate Tax expired for 2010 and as of January 1, 2011 was to return to the former exemption of \$1 million and rates up to 55%. With this new Law the rate and exemption amount are temporarily set at 35%, with a \$5 million exemption. There are also transition rules for 2010 which provides additional planning options.

This means that without too much difficulty, a married couple can protect \$10 million in assets from Federal Estate Taxes for their heirs. There are other alternatives to lower or eliminate Federal Estate Taxes, but they are more involved, such as Charitable Trusts, Private Foundations, Generation Skipping Trusts, Grantor Retained Annu-

ity Trusts (GRATs), Intentionally Defective GRATs, Captive Insurance Companies, etc.

One of the surprise additions to the Law was the increase of the Federal Gift Tax Lifetime Exemption to \$5 million from \$1 million. The annual \$13,000 exemption per donee remains in effect.

Also, for the next two years, the current income tax rates for all households will remain intact for all taxpayers. Without the extension of the tax cuts, the income tax rate on domestic dividends and interest would have increased from 15% to as high as 40%. This would have been a substantial negative burden for many retired or invested taxpayers.

With this agreement, the possible increase of taxes on long term capital gains is eliminated for now. There had been a proposal that the 15 % rate would have increased to 20% or 25%.

The extension of all these provisions is only for two years, while extended unemployment benefits would continue for 13 months. The Law also provides a one-year, 2-percent cut in the payroll tax for all workers.

PROTECTING BUSINESS TRADE SECRETS AND INFORMATION

We have seen an increase in the number of cases in which employers have found themselves looking to protect their intangible business assets such as their customer lists and business trade secrets. Pennsylvania has enacted a "Trade Secrets Act" which provides for appropriate protection of trade secrets including cus-

tomers lists and other intangible information. In addition to damages, breach of obligations under this law can result in the award of attorneys fees to the owners of such assets. In a related area of the law, we are also seeing an increase in issues concerning "Covenants not to Compete" with a former employer from both the



employer and employee. As part of our business practice this is also an area which we have become involved in our business transactional areas such as mergers and acquisitions of business entities. We can assist you with these items if you think they might be helpful to you.

OUR FIRM

Thomas F. Toscani, Esquire

Admitted in Pennsylvania and Florida

John E. Lindros, Esquire

Admitted in Pennsylvania, Delaware and California

Lisa E. Grady, Esquire

Admitted in Pennsylvania and New Jersey

Richard Stover, Jr.

Paralegal

Lisa Winograd

Administrative Assistant

Suzanne E. Angelaccio

Office Manager

Q&A

I had a Trust and Power of Attorney prepared years ago. Is it still good?

Trusts can become outdated by changes to the tax law or changes in your personal circumstances. POA's are sometimes difficult to use if more than a few years old. It is good to review your estate plans every few years.

Does avoiding Probate save Death Taxes?

No. Federal Estate Taxes and Pennsylvania Inheritance Taxes are not determined based on whether assets go through probate administration.

If a Will is executed out of State is it valid in PA?

Generally, yes if the Will was executed in accordance with state law in effect at that time. It would be deemed valid in Pennsylvania and any other state. There may, however, be other reasons to review the provisions of a Will on account of unique State Law.

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With over 30 years of legal and business experience, our attorneys offer a high level of sophistication and experience in many areas of civil law, and are capable of helping clients whose needs are complex and involved interrelated legal issues.

We combine our legal experience with our business expertise to work effectively for our clients every day, providing dedicated and responsive legal counsel to clients in jurisdictions in which we are licensed to practice.

To set up a personal appointment, call 610-647-4901. Our main office is conveniently located in the Westlakes office park in Berwyn, just off Route 202 at the Route 252 exit.

About Us

Tom Toscani recently received "The Great Friend to Kids Award" from the Please Touch Museum in Philadelphia for his contribution to and support of the youth in the Philadelphia Community.



John Lindros accepted a 5th term as Chairman of the Business Law Section of the Chester County Bar Association and was a featured speaker at the West Chester University Business Entrepreneurial Forum in September.



Will your Assets pass to your intended heirs?

Estate Planning documents are intended to reduce death taxes and pass property to beneficiaries. If beneficiary designation or asset ownership are not in proper form, the Testator's intent may not be accomplished.

Clients, financial planners or attorneys should not overlook property passing outside a Will or Trust, i.e., by Operation of Law. The law controls the disposition of some assets based on ownership or beneficiary designation, such as jointly held property, life insurance and retirement benefits.

In a typical situation, upon the death of a spouse, jointly held real estate passes to the survivor. The Will of the first to die does not control this disposition, while the survivor's Will does.

Life insurance policies, retirement benefits, POD and TOD accounts have contracts with third party administrators, which designate beneficiaries. Upon death, benefits flow to named beneficiaries under contract (by Operation of Law), rather than by Will. Thus, an estate tax and disposition plan may be undone by the way you own your assets.

A good Estate Planner should avoid these problems up front, by tracking each asset in your overall dispositive and tax plan. To correct these problems after death, you must have a beneficiary willing to disclaim assets. An experienced Estate and Trust attorney should present alternatives to minimize the consequences of erroneous titling or designation of assets.

Main Line Today Honors Firm

Lisa Grady was named Chair of the Young Lawyers Section of the Chester County Bar Association.



Tom Toscani, John Lindros and Lisa Grady were all selected by the Main Line Today magazine as Top Attorneys on the Main Line based on the opinion of their peers.

Tom was chosen in the Estate and Trust Practice area, John in the area of Business/Corporate Law, while Lisa was chosen in the area of Elder Law.