



HAPPY HOLIDAYS!

With Thanksgiving (Clancy's favorite holiday!) over and Christmas upon us, the staff at R. Clancy Parks, Attorney at Law sincerely wishes you and yours a great holiday season. I have always loved Thanksgiving for several reasons: 1) It is the season which reinforces the notion to always look for reasons to be grateful (Try this...Think of 10 people, and write or call to just let them know why you are grateful they are in your life); 2) I always have enjoyed the rush of getting things together knowing I am about to see some of my favorite people and eat some of my favorite food!; and 3) NO GIFT PRESSURE!

I am also mindful this time of year can be particularly hard if you are alone and/or if you have lost someone special. My father struggled through the holidays for this reason. I know several of you this year are experiencing grief and loss. Words cannot necessarily ease your pain, but...well, there is no "but", I just wanted to let you know we do care.

ATLANTA LEGAL CONFERENCE

Clancy is a member of a large association of Estate Planning Attorneys. In early December he will travel to Atlanta, Georgia for an important meeting on Estate Planning and Tax matters. For 4 intense days Clancy will be focused on tax law changes; practice and substance updates; and will be meeting with his colleagues from around the country to discuss how better to serve their clients (you!). Be looking for updates in the coming weeks and months concerning these important changes and how there may be opportunities to take advantage of and/or hurdles to overcome.

The first of the year is always a good time to make sure you have your "house" in order. If you have been thinking about your own need to update or change, January will be a good time to get into the office and meet with Clancy and talk about how to keep everything current.

2010...No Estate Tax...Capital Gains Nightmare

Unless something happens before the end of the year, and it could, 2010 will be the year that there is NO FEDERAL ESTATE TAX! However, it is not what it seems. Since there is no estate tax, there is a capital gains issue that could be far worse than the estate tax. Let me explain.

When you buy an asset, say a piece of real estate, the price you pay for it is called "basis". (Of course there are things like improvements and depreciation that affect the "basis" going forward, but for purposes of this example we are going to assume you bought a piece of rental property for \$50,000 and did not improve it and there was no depreciation.) The current law says when you die your "basis" gets "stepped up" to Fair Market Value. Let us say today the rental property you bought is now worth \$120,000. If you sold that piece of property before you die then you would have a Capital Gain of \$70,000.

\$120,000 (SALES PRICE/VALUE)

LESS

\$50,000 (BASIS)

\$70,000 (CAPITAL GAIN)

Your particular tax rate would be applied to that capital gain resulting in a capital gains tax due. There are ways to defer or even eliminate this tax if you sell an appreciated asset, but that discussion is not the purpose of this article.

Current law also states (and this is the important part!) that if you die and your heirs inherit that same property when it is worth \$120,000 they get the basis "stepped up" to Fair Market Value and NO CAPITAL GAINS TAX is due. In other words, if you die and your heirs inherit the property and they turn around and sell it, then they have no capital gains tax due.

HERE'S THE KICKER! In 2010, it is true, there is no estate tax, but the basis "step up" rule DOES NOT APPLY. Meaning, that even though there is no estate tax, when beneficiaries inherit in 2010 and then sell what they have inherited they likely will have an unexpected capital gains tax. Moreover, if the beneficiary can not substantiate what the "basis" was for the property before they inherited it, then the capital gains tax will be applied on the whole amount of the value of the respective property. In our example, that would mean a tax could be applied on \$120,000 of value, instead of just \$70,000.

In 2011, the Basis Step Up rule comes back, but the damage will have been done. I hope Congress will fix this problem, but we are quickly running out of time. Stay tuned for updates, and if you have any questions feel free to call me at 417.823.9898 or email at cparks@clancyparks.com.

FAMILY MEETINGS

As a reminder, if you have not had Clancy meet with the individual(s) you have selected to handle things upon your disability and/or death, then it is time to schedule that meeting. Clancy is willing to be flexible on start times and days for that meeting. The meeting usually lasts about 45 minutes. It is an opportunity for your "family" to understand outside the context of stress and loss what to expect if you are disabled and what happens when you pass.

It IS the single most important meeting in Clancy's practice in terms of making sure you and your family are in CONTROL of your financial and personal affairs.