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HALES, HALES & GEORGE

ATTORNEYS AT LAW

N E W S L E T T E R

Devoted to Estate and Business Planning Law and Trust Administration Since 1972

HOW WE RAISED OUR CHILDREN AND GRANDCHILDREN WITH UNCLE SAM'S MONEY

by Robert E. Hales

We are aware that many of our clients spend a great deal of their income helping their children and/or grandchildren with some of the necessities of life, including housing, education, automobiles, insurance, airline tickets and general support. You may even be facing the cost of a very expensive wedding for a child or grandchild. How can you use Uncle Sam's money to help you with these expenses?

In 1979, my wife Joan and I had three teenage children who were getting progressively more expensive. We realized that for every dollar of economic need of our children, we would have to earn two dollars to satisfy income tax requirements. If Jan Marie's tuition at Boston College was $25,000 per year, we would have to earn $50,000. If we needed a car for the children, we had to buy it with after tax dollars. If we wanted to take the children on a cruise with us, it also was done with after tax dollars.

We decided in 1979 to create the Hales Children's Irrevocable Trust. Joan and I had assets that were creating a substantial amount of income to us. All of that income was being subjected to our personal income tax bracket, which at the time was fifty percent (50%). We took some of those assets and transferred them to the children's trust. What was the tax effect of that transfer?

The tax effect of the above transfer was to cut the income tax in half. The assets in the trust continued to generate income, but instead of it coming to Joan and Bob, it went into the Hales Children's Trust. The Trustee of that trust, who was an independent Trustee (a very close friend), was allowed to distribute the income to our three children depending on who needed it the most for education, housing, maintenance and even the

Continued on page three...

PERIODIC REVIEW OF LIVING TRUST IS NECESSARY

A periodic review of your estate plan with an attorney in our office is necessary especially when major changes occur in your life. We have detailed some of the examples of occurrences that necessitate a review of your estate plan below. Of course, regardless of whether any of the below changes have happened, you

Continued on page two...

THERE'S MORE INSIDE

Baby Boomers Turn 50........................ *pg.3*

PERIODIC REVIEW OF LIVING TRUST IS NECESSARY

Continued from page 1

should still make an appointment to visit our offices if a substantial amount of time has elapsed since our last meeting, or if you have any questions about your estate plan.

Divorce

If you have obtained a divorce since you executed your Living Trust, you should contact us. A revocation of your Living Trust and the execution of a new Trust may be necessary.

Remarriage

A new spouse must be specifically mentioned in your estate plan regardless of whether or not you wish to distribute assets to that spouse at death.

New Children/Grandchildren Born, Children Have Attained Adulthood

Children born to you after the execution of your estate plan must be added to your documents. Also, if children are now adults, you may wish to change the distribution of your assets to the children or you may want to consider the children as Successor Trustees. Additionally, with the birth of new grandchildren, many of our clients consider a bequest of a percentage of their assets to their grandchildren, for example, for their education.

Durable Powers of Attorney Executed Before 1989 Must be Re-executed

Durable Powers of Attorney (DPA) are essential elements of all estate plans. These documents name the people who will act on your behalf if you become incapacitated. Not only will properly designed DPA's save your loved ones thousand of dollars, but they will also minimize the legal hassles involved in conservatorship proceedings. All DPA's that were executed before 1989 should be re-drafted and executed because of recent changes in the law.

Death of a Settlor, Trustee, and/or Beneficiary

If your spouse has died since you both created your Living Trust, you must contact our office. At the death of a Settlor, a process called Trust Administration is necessary to administer your Living Trust and take full tax advantage of the laws. Please call us if a death has occurred because we initially planned your estate and we best know how to administer it after a death. Additionally, if a Trustee or a beneficiary of your trust is deceased, we should discuss replacements and the distribution of your estate.

Change in Financial Net Worth

Large fluctuations in the value of your estate create opportunities to take advantage of income tax and federal estate tax laws. If your estate is worth substantially more (or less) than when you executed your estate plan, please call us.

Execution of Living Trust Prior to 1982

Major tax law revisions that occurred in 1982 have had a huge impact on your estate plan. If your estate plan was executed prior to 1982, please contact us at your earliest convenience so we can review your estate plan as soon as possible.

Purchase of Life Insurance

Any life insurance you own at your death is subject to the federal estate tax laws. We should discuss the possibilities of changing the ownership and beneficiary designations on your insurance and the creation of irrevocable trusts so no federal estate tax is imposed on the proceeds of your insurance.

CAN WE TALK?

Do you have a business, club or group who would like to hear a presentation on estate and business planning? All three of the attorneys at our office give interesting and humorous seminars to audiences of 10 to 500 or more. Please call our main office for further information or to schedule a seminar.

HALES, HALES & GEORGE

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"Using Uncle Sam's Money to Raise Your Children"

Continued from page 1

niceties of life (why "niceties" will become more apparent at the end of this article). Now, if Jan Hales needed $25,000 per year to go to Boston College, her mother and father did not give her a check, the Trustee of the trust paid the tuition. At the end of the year, the Trustee also gave Jan a 1099, showing that she received $25,000 of income from the Hales Children's Trust. This meant Jan, who was in a twenty percent (20%) tax bracket was paying the taxes on that $25,000. It also meant that her parents, who were in the fifty percent (50%) bracket, had to pay no tax on the same $25,000. This is a savings of approximately thirty percent (30%) in taxation for every dollar our children received from the trust because all of the money from the trust was taxed to our children rather than to us. I can tell you that by the time Lynn Anne was out of college and Jan was through law school, this trust had generated and saved a lot of money.

The trust also allowed other expenditures because of the way we structured the terms. In addition to education, it also enabled our children to buy an automobile. The automobile was not registered in their parents' name, nor was the insurance. Thus, if the children were involved in a serious accident, it could in no way involve their parents. It also meant that if the children were going to Hawaii with us for a vacation, their airfare was paid by the trust. You see we also allowed the Trustee, under the terms of the trust as stated above, to distribute income, if it was available, for the "niceties of life". This included tickets aboard a cruise ship for Lynn Anne and Jan to China in 1982. Again, they incurred the income tax that resulted from their tickets, rather than Bob and Joan.

Finally, in one of my most pleasurable moments as a tax attorney, when my oldest daughter, Lynn Anne was married, guess who paid for the wedding? You're right, the Trustee of the trust distributed income to Lynn Anne to pay for the cost of her wedding. The "down side" of this became apparent when my son-in-law called me the January after the wedding and questioned why there was a 1099 for the cost of the wedding. I explained to him that it was because they had to pay the tax on the money that was used for their wedding. He said "I knew I should have never married a tax lawyer's daughter". As I said to him, "better you pay in a twenty percent (20%) bracket than me in a fifty percent (50%) bracket".

Many of you are gifting $10,000 per year to help your children and grandchildren. While there is nothing wrong with making these outright gifts of cash, the creation of an irrevocable trust for gifting is a much more advantageous option.

If you are interested in this marvelous tax saving idea, one of the few trusts that the Hales Family ever created that benefitted us immediately (my living trust and insurance trust only help my family after I am dead) then please, contact the office and we will be happy to explain the details to you, and the various ways that you can establish plans of this type.

BABY BOOMERS TURN 50

The impending 50th birthday of the oldest of the 78 million baby boomers creates opportunities and problems for all of us. We as estate planners are concerned because this huge maturing generation of boomers,could have an adverse affect on their parents' estate planning.

The estate plans that are executed by our clients protect their assets and loved ones and guarantee that their estates will be distributed to the beneficiaries of their choice with the least amount of taxation. However, if your children, many of whom are baby boomers, have not done estate planning, their assets could become part of your estate tax problem and their children could become your legal responsibility.

It is a foregone conclusion that boomers in their 40s and early 50s are one of the most affluent groups in the United States. Markets have targeted this group, born between 1946 and 1964, for decades. However, this large affluent group is also known for its' "fun-seeking" and is not renowned for its' "planning" prowess. Therefore, when these maturing boomers die, often their sizeable estates are distributed according to the laws of intestate succession and sometimes their wealth winds up back in their parents' estate. Consequently, at their parents' death, the Federal Estate Tax imposed by Uncle Sam is much greater.

It is imperative that baby boomers understand the necessity of estate planning and the expensive tax ramifications of not planning.

HALES, HALES & GEORGE, a family-owned law firm with offices in Saratoga and San Francisco, California, specializes in Estate and Business Planning as well as Probate and Trust Administration. Each partner of Hales, Hales & George is a member of the State Bar of California, the Santa Clara Bar Association, and the Santa Clara County Estate Planning Council. This issue of the Hales, Hales & George Newsletter was designed by Lynn Anne Heil and written & edited by attorneys Robert E. Hales, Jan Marie Hales and William P. George. Any questions raised by these articles can be addressed by simply writing the law firm at 19040 Cox Avenue, Suite 3, Saratoga, CA 95070 attention: HH&G Newsletter. This newsletter is intended to be a source of information for our clients and associates and should not be considered personal legal advice. Laws can change frequently and rapidly. Please consult your attorney before relying on any information contained in this publication. (408) 255-6292, Fax - (408) 865-1904, e-mail: hhginc@aol.com.

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Estate Plan Up-Date Certificate

As a service to our existing clients who have received this NEWSLETTER, this certificate entitles you to a meeting with an attorney from HALES, HALES & GEORGE to review your estate plan and the impact of current tax laws for a fee of $100 per year. This meeting will be a review of all your estate planning documents including your Exhibit "A". If any additional documents or changes to existing documents are required, an additional fee will be quoted during your scheduled appointment.

Please complete the information below and return this certificate with a check for $100 payable to HALES, HALES & GEORGE. Upon receipt, we will call you to arrange a convenient time to meet with you or please feel free to call us at (408) 255-6292 to schedule an appointment.

NAME:______________________________

ADDRESS:______________________________

DAYTIME PHONE:__________________ HOME PHONE:__________________