

Winter 2006

— POST-DEATH PLANNING OPPORTUNITIES —

Jim McNary, Attorney

The personal representative of a probate estate or the trustee of a trust has many post-mortem responsibilities. Typically, a personal representative or trustee is responsible for collecting and liquidating assets, paying the expenses of the administration of the probate estate or the trust, preparing accountings and distributing the assets to the heirs or beneficiaries. More often than not, the personal representative or trustee is also responsible for filing income tax returns, and in some cases estate tax returns as well. In many cases the personal representative or trustee may take advantage of any number of income or estate tax planning opportunities as she fulfills her fiduciary obligations.

The following is a list of some of the post-mortem planning opportunities available to personal representatives and trustees.

- Filing a joint income tax return for the decedent and his or her surviving spouse.
- Determining whether to deduct the decedent's medical expenses on the decedent's income tax return or estate tax return.
- Electing to accrue or pay Series E bond interest.
- Electing to split gifts with the surviving spouse.
- Electing to treat a revocable trust as part of the estate under I.R.C. § 645.
- Electing alternate valuation on the decedent's estate tax return.
- Electing special use valuation on the decedent's estate tax return.
- Making the estate tax QTIP election under I.R.C. § 2056(b)(7).
- Determining whether to deduct administration expenses and losses on the decedent's estate tax return or the estate's fiduciary income tax return.
- Electing to extend the time for the payment of estate taxes under I.R.C. § 6166.



- Electing to redeem corporate stock to pay estate taxes under I.R.C. § 303.
- Making elections for GST purposes including electing to split gifts and/or making the reverse QTIP election and allocating GST exemption.
- Determining whether to make a qualified disclaimer of assets passing from the decedent.
- Determining whether to make an election against the decedent's will.
- Selecting the fiscal income tax year for the decedent's estate in order to defer income tax payments, minimize income taxable to distributees and spread income evenly over two or more years.
- Electing to make distributions of property in kind under I.R.C. § 643(e).
- Making the 65 day election under I.R.C. § 663(b).
- Determining whether to make "trapping distributions" of income.
- Electing qualified subchapter S trust (QSST) status for trust holding S corp. stock, making the election for a small business trust, and making election to terminate an S corporation's taxable year.
- Determining whether to make a basis adjustment election under I.R.C. § 754 for partnership interests owned by decedent.
- Determining the appropriate distribution options under decedent's tax-deferred accounts, including whether to exercise the spousal rollover.

The opinions and ideas expressed herein do not constitute legal advice and should not be relied upon as such. If you have a specific legal problem, please consult a lawyer.

Watson & Speight, P.A.
411 West Third St.,
Red Wing, MN 55066
Phone: (651)388-8805
Fax: (651)388-8807
www.watsonandspeight.com

PRST STD
US POSTAGE
PAID
RED WING, MN
PERMIT NO. 375

Join us in celebrating the holiday season . . .



Friday, November 24, 2006
4:00 to 7:00 p.m.

Watson & Speight Law Office
411 West Third Street, Red Wing

Drop off your Toys for Tots or monetary donations

Organization

KENT W. SPEIGHT
Chief Executive Officer
Attorney

JENNIFER L. LAPPEGAARD
Associate Attorney

JAMES T. McNARY
Associate Attorney

KAY HALVORSEN
Legal Assistant

RUTH A. GOUDY
Legal Assistant

YVONNE M. RAASCH
Secretary

BARBARA J. JANISCH
Secretary

This newsletter is not intended to constitute legal advice regarding specific legal issue. If you have a specific legal concern or need advice, you should consult an attorney of your choosing.

Watson & Speight Law Office will be closed on December 25 and January 1.