Cullen | Dykman

Estate Planning

A significant portion of the work of our Trusts and Estates department involves helping clients mitigate federal and state gift, estate, generation-skipping transfer, income and excise tax liability. As a result, we not only have extensive experience drafting wills and revocable living trusts that incorporate appropriate credit shelter and marital deduction provisions, but we also routinely use residential trusts, perpetual generation-skipping trusts, family partnerships, limited liability companies, split-dollar insurance trusts and other special-purpose tools to achieve our clients' tax-mitigation and other estate planning goals.

Tax-Conscious Estate Planning for High-Net-Worth Individuals

Now more than ever, individuals who own sufficient assets face estate tax concerns and must be mindful of the need for thorough planning. We have recently seen a revolution in the manner in which estates are taxed, and there are numerous issues under the Internal Revenue Code and the laws of New York and New Jersey that require careful estate planning. For example, while the gift and estate tax exemptions provide an excellent chance to pass wealth on to future generations, nuisances written into the law can erase the increases in these exemptions that have been applied in recent years.

Of course, not all aspects of estate planning focus on tax mitigation. For example, when passing down significant wealth, it is necessary to determine whether your intended beneficiaries will be able to manage your assets responsibly, or whether comprehensive trust provisions may be necessary. If you have a strong desire to disinherit someone this is something that will require clear and decisive planning as well. In all cases, it is important to select an executor or trustee who understands and can execute your final wishes. Our trusts and estates attorneys have the experience to assist you in making these kinds of sophisticated decisions and minimizing the risk of estate litigation.

Estate Planning for Non-U.S. Citizens and Spouses

For clients who are not citizens or residents of the United States, but who have investments in the country, we assist in the creation of off-shore trusts and personal holding companies to minimize tax exposure within the U.S. We also routinely draft qualified domestic trusts to benefit spouses who are not U.S. citizens.

Marital Agreements

Our attorneys regularly represent clients in the preparation and negotiation of pre-nuptial and post-nuptial agreements, while considering spousal rights and property tax issues that can arise upon one spouse's death. We use these agreements to free our clients from the laws conferring the right to one-third of the estate of a

deceased spouse on the surviving spouse that would otherwise apply. In some cases, we also use these agreements to provide for the disposition of assets on the termination of a marriage.

Marital agreements can also provide certainty for the treatment of inherited assets and family businesses, even in the case of first marriage. However, they take on heightened importance in situations where one or both spouses have been married previously and have children from their prior marriage.

Retirement Benefit Planning

An integral part of the estate planning process involves conducting a comprehensive analysis of all available retirement assets, including benefits available through qualified employment plans, tax-sheltered annuities and Individual Retirement Accounts (IRAs). Qualified plans are generally governed by the federal pension law known as ERISA, which imposes minimum standards on plan eligibility, accrual and vesting of benefits, company and participant contributions, and the payout of benefits from the plan. Other types of plans are subject to varying rules and regulations, including 401(k) plans, profit sharing plans, stock bonus plans, ESOPs, money purchase plans, target benefit plans and new comparability plans. This is a highly technical and complicated aspect of estate planning, and our attorneys bring decades of experience to helping clients navigate the complex issues involved.

Your employer's qualified plan, tax-sheltered annuity and your IRAs are essential components of your estate. For many people, they constitute the majority of their net worth. As a result, it is critical to make sure you have a clear understanding of the benefits to which you are entitled to from each of these plans and how those benefits can be paid. At Cullen and Dykman, we integrate the payout of benefits from these retirement plans with our clients' overall estate plan, ensuring that the tax-deferred nature of our clients' retirement assets can be continued for the longest period of time possible.

Charitable Giving

We have extensive experience working closely with clients who intend to make significant gifts to charity through their estate plans. We help our clients establish and manage charitable trusts and foundations (consisting of both private and publicly-supported foundations), including addressing all tax and legal compliance issues. Our attorneys represent and have strong relationships with many Manhattan, Brooklyn, Long Island and New Jersey charitable institutions, and we assist these organizations and their prospective donors with all aspects of gift and tax planning. Our close ties to these charitable institutions are a product of over one hundred and fifty years of service to our community.

Business Succession Planning

For business owners, business succession planning will be a central focus of the estate planning process. We assist clients with all aspects of business succession planning, from establishing new family partnerships, limited liability companies, and split-dollar insurance trusts to ensuring continuity of operations in the event of an unexpected or untimely death or event of incapacity. Some business owners prefer to transition ownership and control during their lifetime while they are still able to play an active role in the process. Others prefer to remain

in control of their business for as long as possible. Whatever your goals may be, we can help you prepare the necessary documentation to ensure that your business will continue according to your personal desires.

Insurance Trusts

Insurance trusts are another type of important estate planning tool, that can offer several valuable tax advantages. One particular type of trust, known as the Crummey trust, allows for the removal of substantial assets from a person's taxable estate and can offer significant tax savings. In many cases, we will recommend life insurance trusts as part of a comprehensive estate plan.