Estate Planning Law Update

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As a service to our clients, Holifield & Associates, PLLC periodically issues a newsletter to keep you informed of developments in statutes, regulations, and case law in the field of estate planning. If you would like any assistance or further information about any of the matters described in this update, please call, and we will be happy to discuss these issues with you further.

The beginning of each year brings a time of reflection and organization. An estate plan is a group of evolving documents. While stepping into a new year, it is recommended that you review your complete estate plan to ensure your wishes and any changed circumstances are addressed. Here are a few estate planning questions to ask yourself as you enter the new year:

1. Are there any changes in the tax laws for 2014 that require revisions to my estate plan?
2. If making gifts to loved ones, are you within your lifetime and/or annual exemption amount?
3. Are you commissioning the most current and effective estate planning strategies?
4. Are you making the most of income tax deductions?
5. Do your estate planning documents still reflect your wishes?
6. Here are a few such times when you should consider an update:
    a. Changes in marital status
    b. Changes in the number of beneficiaries
    c. Changes in the status of beneficiaries, i.e. over age 18, etc.
    d. Substantial changes in net worth
    e. Changes in fiduciaries
    f. Moving to another state
7. Are your cash donations from an IRA to charity being properly made?
8. How should you effectively use capital gains and time long-term losses?

See Ten Estate Planning Questions to Ask Yourself, By Gerry W. Beyer, Saturday, November 30, 2013; Ike Devji, *6 Key Times to Consider Estate Plan Updates*, Producers Web, Oct. 4, 2013.

2014 Changes to Tax Laws

The federal estate tax exemption for 2014 falls in line with the gift tax lifetime exemption at $5.34 million, up from $5.25 million in 2013. The Tennessee inheritance tax exemption increases to $2 million for 2014, on the way to being phased out in 2016.

Beginning in 2014, the gift tax lifetime exemption will increase to $5.34 million per individual. Annual exclusions regarding gift tax for 2014 remain at $14,000.00 to each individual recipient and $28,000.00 for married couples on jointly owned property to each recipient. This means an individual may gift up to $14,000 to each recipient in 2014 without the necessity for filing a gift tax return or using any portion of his or her lifetime exemption amount. The gift tax rate remains at 40 percent on gifts above the lifetime exemption amount. Monetary gifts and gifts of property under the annual exclusion amount are often used as an alternative for passing on a portion of

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Family Harmony

The beginning of a new year affords a good opportunity to begin an open conversation with your children and other individuals about your estate and financial plans. According to a recent study from Bank of America Merrill Lynch, more than half of respondents had not discussed issues such as wills and health directives with their children and almost a third had not discussed these issues with their spouse. The main reasons for avoiding these discussions were avoiding family conflict and avoiding the discomfort. While the conversation may be difficult to have, here are seven reasons why you should clear the air:

1. **Avoid surprises.** Instead of leaving children wondering why you made certain decisions, be upfront about your intentions.
2. **Refine your plan.** It is important to determine your children's wishes when thinking about your current plan. This is especially important when considering the succession of a family business.
3. **Save taxes.** If the estate tax is an issue, making lifetime gifts now can save on taxes later.
4. **Adjust expectations.** If you've already given your children large gifts, they may be wondering if that's all they are going to get. Set the record straight.
5. **Explain yourself.** Children may accept your decision more easily if you've explained why you made your decision.
6. **Anticipate a disclaimer.** Find out if your children or other beneficiaries would consider disclaiming their inheritance.
7. **Promote harmony.** Talk to each child and beneficiary about their ideas and opinions.

See Deborah L. Jacobs, *Seven Reasons to Tell Your Kids What They Will (Or Won't) Inherit*, Forbes, Nov. 27, 2013.

Do You Have an Exit Strategy? Business Succession Planning in 2014

Estate and succession planning for a professional can present a set of challenges since professionals are required to be licensed, and state professional regulatory authorities limit ownership to licensed professionals. Therefore, a professional does not have the ability to pass ownership to future generations unless the professional's children happen to follow in his footsteps. In most cases, the professional will need to plan an exit strategy that involves the transfer of his ownership interest to other partners or an associate.

A well-drafted Buy-Sell Agreement among business owners will set forth both the procedure for computing a buyout price as well as the various triggering events that would cause a buyout, such as retirement, death, disability, a desire to practice with another group, the loss or suspension of professional license, or for other reasons. The buyout price can differ among the various scenarios, and the price can be expressed as a percentage of the buyout valuation. The agreement should also set forth how and when payments will be made to the professional exiting the practice. As discussed below, choice of entity does affect the form a buyout can take, as well as the income tax consequences for both the remaining professionals and the retiring professional.

Succession planning for other business owners can also be simplified with Buy-Sell Agreements, as well as other estate planning tools. These methods can clearly set out procedures for transfer of ownership to partners or family members. The beginning of the year is a great time to determine how best to ensure the continuation of your business.