



The Law Offices of

Bromm Lindahl Freeman-Caddy & Lausterer

An Organization of Professional Corporations

Curtis A. Bromm, P.C.
Loren L. Lindahl, P.C.

Maureen Freeman-Caddy, P.C., L.L.O.
Jovan W. Lausterer, P.C., L.L.O.

2017 ESTATE PLANNING MEMORANDUM

Following is an update of the various federal tax figures which are subject to inflation adjustments and should be factored into as part of your estate plan:

- A. The federal estate tax rate is permanently set at **40%** per Section 101(c)(1) of the Act.
- B. The federal estate tax exemption for 2017 has been inflation adjusted to **\$5,490,000**.
- C. Spouses **are** allowed to combine their exemptions. In other words, if the first spouse to die uses only two million of their available exemption, their surviving spouse would have use of their federal estate exemption plus the remaining balance of their spouse's unused exemption. This can be accomplished without a revocable trust.
- D. The Annual Gift Tax exclusion for 2017 remains at **\$14,000** per donor to each donee.
- E. President Trump has proposed a full repeal of the federal estate tax. In exchange, the proposal would eliminate the current step-up in tax basis upon death, with a \$10 million exemption. Many details are missing from this plan and there are not many details to go by currently if changes are expected in 2017.
- F. The additional **3.8%** Affordable Care Act tax which is assessed against net **investment** income above a threshold of \$250,000 for couples (\$200,000 for singles) may be affected should they repeal and/or replace the Affordable Care Act. Again, little detail is currently available.

NEBRASKA MEDICAID LOOK-BACK LAW CHANGES TIME SENSITIVE

Governor Ricketts signed LB 268 on May 23, 2017, which brings on a major change in the way the Nebraska Department of Health and Human Services (DHHS) will look at property ownership at the time a person applies to receive Medicaid Assistance. Currently, if an individual transfers real estate to another person and retains a life estate or life use of the property, that property will not be considered an available resource for use by that individual if the transfer was made at least 60 months (5 years) prior to the application for Medicaid. The State will only look at the income produced, not the value of the property.

That look-back period will no longer be effective for life-estate deeds filed after **August 22, 2017**. This has been one of the only Medicaid planning tools available to land owners until now, and it will soon be non-existent. If you are interested in discussing this issue with an attorney, the time is now. Signing the deed is not enough – the deed must be recorded at your county recorder by that date. It is important to prepare and file it correctly. A transfer of real estate with a retained life estate

is not advisable, appropriate or necessary for everyone. However, we believe it is important to advise you of this change in the law.

Additionally, **lease rates** were not scrutinized by DHHS in the past in the case of a tenant renting from a life-tenant, but starting on the same date, the law indicates that leases need to be at Fair Market Value. So, if you are a life tenant renting to someone or you are renting from a life tenant and the rent is less-than-fair-market value, this might be considered a deprivation of resource to the life tenant, and cause difficulty with Medicaid as well. You should consult your attorney immediately if this is the case as termination time for agricultural leases is upon us – September 1, 2017. Terminations need to take place, we suggest in writing, to tenants or landlords well before that date so that new rates can be established.

This information is intended only to provide general information in summary form. The contents hereof do not constitute legal advice and should not be relied on as such. Please contact our office for an appointment if you have questions about how these changes impact your estate or business plan.