

2003 YEAR IN REVIEW

By: Christine J. Sylvester, Attorney at Law

This is my annual memorandum updating your knowledge on various legal issues. I also want you to know how much I appreciate and value each of you being part of my practice. May you have a joyous and blessed holiday season as the year 2003 comes to a close.

On a personal note, this past year has certainly been an exciting one for the Sylvester family. On November 7, 2002, a Sylvester heir was introduced and immediately stole my heart, redefining my understanding of love. We named him Grant Michael Sylvester and we praise God for this blessing.



November 2002



April 2003



November 2003

In light of this new addition, my office hours have changed. My assistant, Joyce Kale, is available Monday through Friday, but my office hours are Tuesday through Thursday 10:00 AM to 4:00 PM. My practice remains in the area of estate planning, wills, charitable trusts, probate, living trusts, trust administration, tax planning and elder law.

I hope you enjoy the enclosed information and, of course, if you have any questions, then please contact Joyce for an appointment at **704.597.7337 or 1.800.914-9041**.

UPDATE ON FEDERAL ESTATE AND GIFT TRANSFER TAXES

You have probably heard about proposed legislation to repeal the federal estate tax or increase the amount of property a person can own without being subjected to the federal estate tax. None of this legislation has yet been passed and may never be passed in the near future, if ever. Under the 2001 Act (EGTRRA), the available exemption increases, the top marginal estate tax rate decreases, and other changes are made over the next eight years. Then, effective, 1/1/10, it repeals the estate and generation-skipping transfer taxes altogether, but only for the year 2010. On 1/1/11, all of the pre-2001 Act rules are to be reinstated. These changes do not apply to the gift tax. The gift tax exemption remains at its current \$1,000,000 amount and does not increase in future years. The following chart sets forth the upcoming changes as provided by EGTRRA:

Year	Estate/GSTT Exemption	Top Estate Tax Rate	Gift Exemption
2004	\$1,500,000	48%	\$1,000,000
2005	\$1,500,000	47%	\$1,000,000
2006	\$2,000,000	46%	\$1,000,000
2007	\$2,000,000	45%	\$1,000,000
2008	\$2,000,000	45%	\$1,000,000
2009	\$3,500,000	45%	\$1,000,000
2010	REPEALED	35% (gift tax only)	\$1,000,000

(The generation-skipping exemption will be \$1,120,000 for 2003, subject to possible adjustment for inflation.)

UPDATE ON NORTH CAROLINA ESTATE AND GIFT TAX

On 9/30/2002, Gov. Easley signed into law Senate Bill 1115. Prior to this bill becoming law, the N.C. estate and gift tax provisions did not conform with federal tax law following EGTRRA. After the enactment of EGTRRA, N.C. did not change its reference to the "Code" to the post-EGTRRA Code. Thus, in cases where no federal estate tax was due on a decedent's estate under the new federal law, N.C. estate taxes may have been due in that N.C. still calculated the state death credit based on pre-EGTRRA federal applicable credit. For example: A decedent dies on 3/1/02 leaving his \$1,000,000 estate to his children. Under EGTRRA federal law, no federal estate tax is due in that the applicable credit amount in 2002 is \$1,000,000. However, under N.C. law, the pre-EGTRRA rules would result in a state death tax credit of \$33,200. Therefore, \$33,200 in N.C. estate taxes would be due. The bottom line is that prior to the passing of Senate Bill 1115, a N.C. decedent may have owed no federal tax thanks to EGTRRA, but could owe N.C. estate tax because N.C. did not incorporate the new Code EGTRRA modifications.

How does Senate Bill 1115 change this? The Bill defines "Code" as the Internal Revenue Code after EGTRRA. In other words, if there is no federal estate tax liability, then there will be no North Carolina estate tax liability. However, for those with estates over the federal exemption amount as outlined by EGTRRA, there are still complications associated with the amount of N.C. estate tax due. When the state death tax credit resumes in 2011, when EGTRRA is phased out, N.C. will again have an estate tax. I understand that N.C. intends to revisit the N.C. estate tax rules prior to July 2005 to assess what type of estate tax, if any, North Carolina wants to impose for decedents dying on or after 7/1/05.

ANNUAL GIFT EXCLUSION

Beginning in 1998, the federal gift tax annual exclusion was indexed for inflation in \$1,000 increments. For gifts made in 2002, the annual exclusion was increased to \$11,000. Senate Bill 1115 revised NC rules to provide that the North Carolina annual exclusion will parallel federal gift tax law. Beginning 1/1/02, North Carolina residents may give up to \$11,000 of a present interest gift per year to any other individual. The provision also allows for gift splitting so that a married couple could give up to \$22,000 per year to one individual. This rule also applies for the year 2003 so if you plan to utilize this provision, you have until 12/31/03 to complete your year 2003 gift. As a reminder, please be sure to use cash or a cashier's check to be sure the gift is completed before the year's end (that the check is cashed). Senate Bill 1115 makes no change to the \$100,000 lifetime exclusion from North Carolina taxable gifts available for gifts to certain individuals which applies to any gift exceeding the \$11,000 annual limitation.

FINAL COMMENTS

Take time to locate your original estate planning documentation. This is not the documentation in your green binder, those are only copies. The originals have original signatures and a notary seal. Over the past two years we have had several cases wherein family members have been unable to locate the original will, power of attorney or trust. THIS OFFICE DOES NOT KEEP ORIGINAL ESTATE PLANNING DOCUMENTATION. We present all originals to the client for safekeeping. So take some time to locate your originals and be sure your family members are advised. If you are unable to locate your original documentation, please contact our office immediately. Failure to locate originals results in an administration of your estate as if you have no plan.

*LAW OFFICE OF CHRISTINE J. SYLVESTER, P.A.
2720 E. WT HARRIS BLVD., SUITE 100
CHARLOTTE, NORTH CAROLINA 28213
704.597.7337
cjs@preservingyourwealth.com*