

2005 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 2005 comes to a close.



On a personal note, the past two years have been full of changes in my personal life. As many of you know, following the birth of my first child, Grant Michael, I found out I was pregnant with our second child in 2004. We were overwhelmed with excitement upon learning that I would now have two boys to play with. The second pregnancy went according to the books until about the 28th week. At a routine check-up, it was determined that our little man was not thriving in the womb. I was ordered on immediate bed rest, which resulted in a hospital stay until delivery at 30 weeks. On June 26th, my body said it was time so an emergency c-section brought into our world a 1 pound 14-ounce miracle named Garrett Steven Sylvester. Our “butter-bean” stayed in the Presbyterian NICU for 52 days until he was able to feed on his own. We brought him home in August and he has been the joy of our days since. This ordeal obviously has required a modification to my professional schedule. In that Garrett is unable to stay in any day care facility, I have been forced to be a stay-at-home mom since his homecoming. That personal requirement has resulted in a very part-time schedule professionally. To date, Garrett is doing exceptionally well and continues to defy all the experts with his development. Until his weight stabilizes, we must keep him at home, but the year 2006 brings my mother to the Charlotte area from Aiken, S.C. so it is my prayer that more hours can be devoted to my office and client needs starting in January. For those of you that have experienced any delay in response or difficulty in communication with me since June 2004, I apologize and appreciate your prayers and understanding as I attempt to balance my personal and professional lives.

In light of this new addition, my office hours have changed. My assistant, Joyce Kale, is available Monday through Friday on a part time basis, but my office hours are currently Monday and Friday mornings with the hopes of additional dates and times in 2006. Please feel free to contact Joyce for my schedule and we will certainly work to meet your family needs in the coming months. 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**.

UPDATE ON FEDERAL ESTATE AND GIFT TRANSFER TAXES

The amount exempt from federal estate tax will increase on January 1, 2006 to \$2 million. You have probably heard that there was hope that a open debate would occur to eliminate this tax, but that plan was postponed when Congress turned its attention to recovery from Hurricane Katrina. As it stands now, the \$2 million exemption remains through 2008. In 2009, the exemption amount increases to \$3.5 million through 2009 with the tax completely eliminated in the year 2010. However, in 2011, the rules roll back and the tax returns for those estates which exceed \$1 million. As we continue to monitor this political issue, you need to review the following:

-TURN OVER-

1. If you have a mandatory A/B tax provision in your estate planning, a change may be necessary to prevent any unwanted or unexpected effect in light of this increasing exemption amount.
2. As the amount passing tax free to beneficiaries' increases, the concern as to how those beneficiaries will handle this inheritance increases. Carefully review your distribution plans and your trustee/executor positions to be sure the proper parties and/or plan is in place to protect and provide for your heirs.
3. Keep in mind that while the federal estate tax rules are changing, each state has it's own set of inheritance tax rules. North Carolina continues to follow the federal rules so as residents of North Carolina, if you owe no federal estate tax, you owe no North Carolina Inheritance tax. However, if you own real estate in other states, the inheritance tax rules of those other states may adversely affect your planning.

ANNUAL GIFT EXCLUSION

Beginning in 1998, the federal gift tax annual exclusion was indexed for inflation in \$1,000 increments. For gifts made in 2005, the annual exclusion is \$11,000. Starting January 1, 2006, the annual exclusion will increase to \$12,000. Senate Bill 1115 revised NC rules to provide that the North Carolina annual exclusion will parallel federal gift tax law. Beginning 1/1/06, North Carolina residents may give up to \$12,000 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 \$24,000 per year to one individual. Keep in mind that there is still 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 \$12,000 annual limitation.

THE KATRINA EMERGENCY TAX RELIEF ACT OF 2005 (the "Katrina Act")

On 9/23/05, Pres. Bush signed the Katrina Act, which gives tax incentive to victims of Hurricane Katrina. Within the Katrina Act, however, is charitable relief to all. The Katrina Act suspends for charitable contributions made by individuals between 8/28/05 and 12/31/05 the percentage limitations and carryover limitations on making charitable contributions. This contribution must be made to a public charity and the relief must be elected by the taxpayer. Contact your CPA to determine whether this deduction could be used to offset income or if you should accelerate income to use your charitable deduction. Remember the contribution MUST be made by December 31, 2005.

FINAL COMMENTS

We continue to have cases wherein family members have been unable to locate the original will, power of attorney or trust when needed. 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.

Circular 230 Disclosure: Pursuant to requirements related to practice before the Internal Revenue Service, any tax advice contained in this communication is not intended to be used, and cannot be used, for purposes of recommending to another person any tax related matter. To the extent this communication contains an opinion on one or more Federal tax issues such opinion was not written to be used and cannot be used for the purpose of avoiding penalties.

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