WAGNER OEHLER, LTD.
Legal & Title Services

Serving clients throughout Southeastern Minnesota in our Rochester, Winona and St. Charles offices.

Rochester: 1801 Greenview Drive SW, Suite 102
Winona: 65 Johnson Street
St. Charles: 819 Whitewater Ave

*guiding you through life's **most crucial** legal decisions*

Fall 2021 **(507) 288-5567**

Estate Tax Update (or, is the trend your friend?)

As we all know, following the election of President Joe Biden and a razor-thin Democratic majority in the House and Senate, the new Administration proposed new infrastructure and social spending programs and sweeping changes to the tax code to cover the costs of the new programs. At first, the new spending proposals exceeded $1 trillion for infrastructure and $3.5 trillion for social spending. To pay for the spending in part, the Administration recommended two major changes to the taxation of estates. These changes included:

- *Eliminating "stepped-up" tax basis at death---this change would effectively pass on deferred capital gains taxes on appreciated assets to the heirs, rather than forgiving the capital gains at death, or*

- *Taxing accumulated capital gains on appreciated assets <u>at death</u>: this draconian change would collect tax on appreciated assets at death, whether the assets were sold or not*

Under current law, when a person dies with appreciated assets, the heirs receive the "stepped-up" tax basis at death. To illustrate:

If, back in the day, Grandpa had bought 160 acres at $2,000/acre and eventually sold at $6,000/acre, he would be taxed on the capital gain of $640,000 when he sold the farm

If, instead, Grandpa held the land until his death, his heirs would have a new "stepped-up" tax basis of $6,000/acre, and there would be no capital gains tax if the farm was sold at the date of death value

The proposed changes would have resulted in taxation of the $640,000 capital gain when the heirs eventually sold the land <u>or</u> immediately at death, regardless of whether the land was sold.

The pushback against this proposal was significant, and so the latest tax proposals have removed both eliminating "stepped-up" basis and taxing accumulated gains at death.

BUT: now proposed changes to the estate tax revolve around <u>reducing</u> the federal estate tax exemption (<u>currently $11.7 million per person, or $23.4 million for a married couple</u>). Right now, these estate tax exemptions are scheduled to expire for decedents dying in 2026; the new change recommends rolling back the exemptions to be effective for decedents dying in 2022. <u>If enacted, the new exemptions would be $6 million per person, or $12 million for a married couple, beginning with deaths occurring in 2022.</u>

Will this happen? Historically, the exemption has not been reduced (despite the political appeal of "taxing the wealthy"). Look at the last twenty years: the exemption for one person topped out at $675,000 per person in 2000, jumped to $1,000,000 in 2002, doubled to $2,000,000 in 2006, rose to $5,000,000 in 2010, and more than doubled to $11,180,000 in 2018.

As of this writing, the Biden Administration has significantly reduced the size of the proposed social spending. As such, any changes in the estate tax exemption have (at least temporarily) been taken off the table.

We'll let you know…but right now, maybe the trend is your friend!

Be Sure to Think About Your Trust If You Acquire New Land

Trusts are just a set of rules. The rules only matter if assets say they're following the rules.

This is a mantra I tell my clients when they're setting up a trust. Trusts can be extremely helpful because they give rules, like rules to your kids on how to co-own property like a farm or a cabin, rules that minimize taxes and rules to avoid probate.

But the rules only matter if the assets say they're following them. This is called trust funding: getting your assets to say they're following the rules the trust creates so your estate plan actually happens.

When we set up trusts, we're also thinking about funding. If we created a trust, you might remember that you didn't only sign a trust. You probably also signed a will and, if you own real estate, you probably also signed a deed to transfer assets to the trustee – the person responsible for managing the assets to the trust – either at the time, or at your death.

Since the trust will usually lay out who will succeed the trustee if they die and who will benefit from the property if the initial beneficiaries die, trusts can be a tool to minimize the need for probate. How? A probate is a court process to put someone in place with the authority to manage assets that were stuck in your name. The assets that say they're following the rules of the trust, now or at your death, aren't stuck in your name.

Here's how that matters to you.

Let's say that you set up a trust. And, because you're working with us, you also signed a deed so that your land will follow the rules of the trust and won't be stuck in probate. But keep in mind, deeds refer to specific property. That deed lists the property you have at the time.

Now, let's say that a few years later you move. Or you inherit part of your parent's farm. Or buy a cabin up north or a condo in Florida. Whatever the case, you acquire new land but you forget that you need to coordinate it with your estate plan. You don't mention you have a trust and the closing agent lists you as the owner of the property.

When you die, the real estate is stuck in your name. Even though you have a great method of avoiding probate, not everything is following the plan. So, your family is also doing a probate. Sometimes, people with trusts still need a probate.

You can avoid this if you think about your trust when you acquire new property. Give us a call when you acquire new property so we can help you figure out how to coordinate it with your estate plan, and if needed have you sign a deed to your trust. Even better, call us before the real estate closing and mention your trust. We can take care of your side of the transaction and coordinate the new land into your estate plan.

Staff Corner: Meet Tammy!

Tammy Scroggins is a paralegal at Wagner Oehler, Ltd. Tammy assists attorneys in multiple practice areas including real estate, probate, and estate planning.

Tammy earned her Associates in Applied Science degree, with highest honors, from the Minnesota School of Business – Rochester in 2012. Tammy has 10 years of paralegal experience.

Tammy enjoys spending time with her husband and children. She loves rock music and the Green Bay Packers.

Attorney Alec Osland was awarded the 2021 Volunteer New Attorney Award at the annual Legal Assistance of Olmsted County Fundraiser. Way to go, Alec!

Wagner Oehler, Ltd. is committed to serving the community.

Attorney Jason Wagner was voted the Post Bulletin's Best Attorney for 2021 and Wagner Oehler, Ltd. was a finalist in the Best Law Firm category.

Winona Office Being Opened

We are excited to announce that we will be opening an office in Winona in the near future! We have been working on establishing a new office and have been in the process of painting, updating, and remodeling the building at **65 Johnson Street** in Winona since July. We are very near to being able to meet with clients in our new space.

As part of opening the Winona office, we are excited and honored to be taking primary responsibility of clients with the law firm Pflughoeft, Pederson & Johnsrud, LLP. Attorneys Steven M. Pederson and Eric P. Johnsrud will be retiring as they transition their practice to the law firm Wagner Oehler, Ltd. Both Steve and Eric appreciate the opportunity to have served their clients and it is not without some mixed emotions that they end their legal relationships with clients.

Pflughoeft, Pederson & Johnsrud, LLP has been a part of the southeastern Minnesota area for more than 80 years. Recognized for its professionalism, experience, and client service, Pflughoeft, Pederson & Johnsrud, LLP's practice areas include real estate, estate planning, estate administration, probate, business law, family law, and personal injury. After almost nine decades of practicing law in Winona, Pflughoeft, Pederson & Johnsrud, LLP has become woven into the fabric of the Winona and surrounding community. Attorney Pederson practiced law for 44 years and Attorney Johnsrud practiced law for 37 years, and Wagner Oehler, Ltd. intends to fill the void they will leave upon their retirement.

Attorney, and firm Vice President, Alyssa Jerde will be leading the Winona office.

Office Hours and Locations

Rochester: **1801 Greenview Drive SW, Ste. 102**
Monday – Thursday 8:30 – 4:30
Friday 8:30 – 3:30

St. Charles: **819 Whitewater Ave**
Tuesday 12:30 – 4:30
Thursday 9:00 – 12:00
By appointment

To schedule an appointment in any of our offices, call (507) 288-5567. You can also book appointments online at www.wagnerlegalmn.com/book-online for appointments in Rochester.

5.0
5 out of 5
facebook

Google
5.0 ★★★★★

Wagner Oehler, Ltd.
(507) 288-5567

www.wagnerlegalmn.com

Fall Firm Recipe Feature!

Smoked Queso Dip

Using a cast iron skillet or oven safe dish combine the following ingredients:

1 lb of Italian sausage (browned)
2 pounds of Velveeta Cheese (cubed)
1 can of Rotella tomatoes
4 oz cream cheese (cubed)
2 Jalapenos
1 can of cream (mushroom, chicken, or bacon)
Top with 2 cups of shredded cheese
Smoke at 350 for one to one and half hours or bake at 350 for one hour.

WAGNER OEHLER, LTD.
1801 Greenview Drive SW, Suite 102
Rochester, MN 55902