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Volume 16 | No. 2

EXPERIENCE IS EVERYTHING™

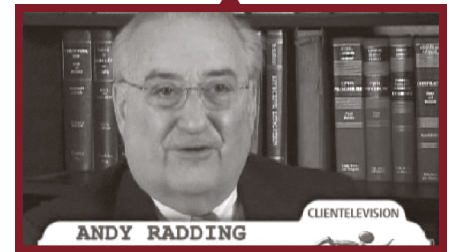
ARD&H In The News...

Michael G. Hendler, Managing Member of Adelberg, Rudow, Dorf & Hendler, LLC, was interviewed by Jeff Salkin of MPT's Your Money & Business, on August 21, 2008, where he discussed The Legal Impact of New Technologies. To view the video clip, please visit: http://www.AdelbergRudow.com/events_mgh_mpt.html



Marc B. Noren, Member of Adelberg, Rudow, Dorf & Hendler, LLC, was interviewed by Kate Amara of WBAL TV on June 29, 2008, where he discussed Christie Brinkley's divorce case. To view the video clip, please visit: http://www.AdelbergRudow.com/events_mbn_wbal.html

Andrew Radding, Member of Adelberg, Rudow, Dorf & Hendler, LLC, was quoted by The Washington Post on July 28, 2008, for its story "Cost to County Will Be Key To Hornsby's Punishment" and by The Daily Record on August 17, 2008, where he discussed handling high-profile criminal cases. Mr. Radding is a contributor to CLIENTELEVISION, a legal video series produced by The Legal Television Network. To view the videos, please visit: http://www.AdelbergRudow.com/events_ar_criminal_Justice.html



Oren D. Saltzman, Member of Adelberg, Rudow, Dorf & Hendler, LLC, was interviewed by Lisa Robinson of WBAL TV on September 7, 2008, where he discussed Maryland employment laws and how the Internet (specifically, new social networking vehicles like Facebook, MySpace, Twitter, etc.) factors into hiring/firing decisions. To view the video, please visit: http://www.youtube.com/watch?v=5qm_MGj4R8



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ARD&H... Your BRAC Resource

If the Base Realignment and Closure program (BRAC) is bringing someone you know to Maryland, they are likely overwhelmed with the myriad of issues and decisions that come along with relocating to a new state.

Adelberg, Rudow, Dorf & Hendler, LLC is a full legal resource for business or

personal relocation efforts, with offices in Howard County, Baltimore City, and Baltimore County - all major BRAC destinations.

We offer counsel to organizations and individuals seeking base realignment opportunities. With over 80 years of experience, our Firm is familiar with the

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The information contained in this publication is not intended to provide legal advice or opinion, and should not be acted upon without consulting an attorney. Additional information on the articles may be obtained by contacting the authors.

What You Need To Know About Maryland's State Prosecutor



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You have probably read or heard a great deal recently about Maryland's State Prosecutor investigating Baltimore's Mayor, Sheila Dixon. But who is the State Prosecutor? What does the Office of the State Prosecutor do? Does the State Prosecutor only go after public officials or are private citizens also targets?

The Office of State Prosecutor was created in 1976 when the General Assembly passed a Constitutional Amendment enabling legislation. The Office grew out of a number of highly political prosecutions of elected officials and was created, in part, to create a non-partisan entity to prosecute certain kinds of crimes.

Unlike the Maryland Attorney General or county State's Attorneys, the Maryland State Prosecutor is not elected but is nominated by the State Prosecutor Selection and Disabilities Commission and appointed by the Governor for a term of six years. Our state's current State Prosecutor is Robert A. Rohrbaugh, Esq., who was nominated and appointed by Governor Robert Ehrlich in 2004.

Maryland law provides that the State Prosecutor can involve himself/herself in certain types of criminal offenses, typically election law violations, ethics law violations, bribery, misconduct of public officials, and related crimes. The State Prosecutor can act on his/her own initiative or at the request of the top state officials, the State Ethics Commission, or a local State's Attorney.


Unlike most prosecutors, though, the Maryland State Prosecutor cannot file charges without first submitting a report and recommendation to the Maryland Attorney General and local State's Attorney unless they are the focus of the

investigation. Only after the Attorney General and State's Attorney have refused to file charges can the State Prosecutor proceed. In some cases, this has led to a delay in prosecution or may cause doubts to be cast on a case that other prosecutors refused to pursue.

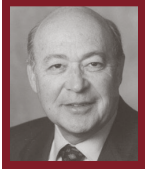
In addition to these limitations, the State Prosecutor does not have all of the powers the Attorney General or State's Attorney would have. Until October 1, 2008, the State Prosecutor did not have the ability to subpoena witnesses or evidence. This has now been changed to put the State Prosecutor on an even footing with the other prosecutors. The State Prosecutor still lacks the power to offer immunity to witnesses in most cases. This may be a significant handicap and dramatically affect how the State Prosecutor can develop a case or how a defense attorney can protect his or her client.

While the State Prosecutor makes headlines for investigating public officials, private citizens can also be targets. One memorable example was the case brought against Linda Tripp, the White House employee who secretly taped her telephone calls with Monica Lewinsky. More recently, the State Prosecutor went after a prominent local developer for violating the state's campaign finance laws. In addition, private citizens involved in bribery of public officials or other misconduct are the subject of prosecution by the State Prosecutor as well.

Anyone contacted by the Maryland State Prosecutor needs to have experienced counsel who can understand the intricacies of this unique law enforcement entity.

If you have questions about these issues or any other criminal law concerns, please contact our office. 

Collateral On Leased Premises Repossessed By A Landlord: Not In My Backyard!



Leslie J. Polt, Esq. | LPolt@AdelbergRudow.com

Co-authored by Michael R. Severino, Esq.

The state of the economy and its effect on the business community are on everyone's minds these days. Perhaps no one is more concerned than commercial landlords, which face significant issues should a tenant default and vacate the leased premises. If the defaulting tenant has ceased doing business or has become insolvent, it may choose to shut down or close its doors, and in doing so leave behind valuable equipment and materials. It also leaves the landlord with a large claim for accrued rent and for damages as provided in the lease.

As most commercial lessors know, a landlord can obtain a statutory lien on goods left on the premises by virtue of Maryland's distraint statute (Md. Code Ann., Real Property § 8-301 et seq.). By law, the landlord's lien will be subordinate to a prior perfected security interest on those goods, typically a lien that the tenant gave to its bank, other lender, or an equipment or inventory supplier. A prior perfected security agreement, however, does not automatically give the secured party the right to enter the leased premises. As a result, two competing interests arise - the landlord's desire to clear the space and re-let the premises as soon as possible and the secured party's desire to obtain and/or sell the collateral.

Once the tenant has vacated or been removed from the premises, either by judicial order or self help, it is important to determine what is on site. Then, a simple search of the UCC (Uniform Commercial Code Financing Statement) database in the state where the tenant is incorporated or organized would reveal the existence of any security interests

covering the tenant's personal property situated on the premises. Several firms provide this service for a small cost. Contact should then be made with these parties to give them notice of the landlord's possession of the premises and intent of the landlord to remove the goods from the premises. Such notice is not mandated by the UCC, but is good practice to reduce the potential for a lawsuit based on destruction or diminution of the value of the secured creditor's collateral.

A secured party will often request time to remove the collateral or may request to enter into some type of occupancy agreement. Most commercial lenders will request a "landlord's waiver" or "use and access agreement" at the outset of their financing, but many secured creditors never bother until it becomes necessary due to a default by their debtor. Either way, the landlord will have to negotiate a number of potentially tricky issues.

There are several considerations that should be addressed in any occupancy agreement, such as the amount of rent charged for the secured creditor's access, the duration of the access to the property, rights of any other secured parties, rights of equipment lessors, indemnification against liability for injury to anyone entering the premises, indemnification against liability involving any priority dispute among competing secured creditors, and cleanup and condition of the property upon return to the landlord. Perhaps the three most important issues, other than rent, are (i) the right to conduct a UCC sale or other disposition on site, (ii) indemnification, and (iii) condition

of the property upon return. The secured party may want to sell its collateral and conduct the sale on site (which also should be addressed in the occupancy agreement) and, if so, should be obligated to indemnify the landlord for potential liability arising therefrom. For example, what happens if an employee or agent of the creditor, or a bidder at public auction, is injured during the sale or inspection of the collateral? What happens if the landlord permits the secured party to remove collateral to which another entity later claims a priority interest? Provision should also be made for the condition of the property upon return. Should the property be broom clean? What about any unsold or abandoned collateral? Who should pay clean-up costs? These issues should be addressed as soon as possible.

Once a tenant defaults, there are often a myriad of issues that need to be addressed by the lessor, including eviction, taking back possession, collection of unpaid rent,

Once a tenant defaults, there are often a myriad of issues that need to be addressed by the lessor...

re-letting the premises and disposition of goods on site. Not surprisingly, proper advance planning is paramount. An agreement with the tenant's lender before a crisis arises, especially with larger tenants, will go a long way toward establishing a greater certainty when dealing with the tenant's personal property left on the premises.





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The Maryland Estate Tax: An Assault on Maryland's Middle Class

An Introduction

One Million Dollars is not what it used to be. Nowadays, if you own a house, have some life insurance and a retirement plan - the three staples of middle class living - then you are probably a millionaire for Maryland estate tax purposes.

Until recently, the estate tax was not a concern of the middle class. Middle class folks paid taxes on their income, received a deduction for their mortgage interest and passed on whatever was left at the end to their children and grandchildren, with the hope that their heirs might live a better life and fulfill the American dream. Today, a middle class Maryland resident who does not plan properly may have their estate taxed by the State of Maryland, thereby reducing the amount they can pass on to their heirs.

As it is currently constructed, the Maryland estate tax regime is a trap for the unwary. The Maryland estate tax is imposed on estates in which the taxable estate is \$1 Million or more. The tax imposes a burden on both Maryland and non-Maryland residents owning Maryland real estate and certain other property, that was originally only intended for the wealthy. Middle-class Marylanders may not realize that their estates could be subject to the Maryland estate tax, and, not surprisingly, they may not have consulted an attorney to assist them in preparing an estate plan.

The Maryland Estate Tax Plans Its Strike

The Maryland estate tax has been in existence for a number of years. However, prior to federal estate tax reform in 2001, the Maryland estate tax generally had no overall economic effect on an individual's estate.

Under the prior federal regime, a decedent's estate received a federal estate tax credit for the Maryland estate taxes paid. That is, for every dollar the

State of Maryland charged in estate taxes, the federal government reduced the federal estate tax liability by a dollar. For example, if the federal estate tax owed by an estate was \$1 Million and the Maryland estate tax liability was \$200,000, then the estate would appear to owe \$1.2 Million in combined federal and Maryland estate taxes. However, instead of owing \$1.2 Million in combined estate taxes, the federal estate tax liability would be reduced by \$200,000, resulting in a federal liability of \$800,000. Thus, the combined estate tax liability was still \$1 Million - the same as the initial federal liability.

However, in 2001 Congress and President Bush overhauled the federal estate tax regime. The federal estate tax exemption level periodically increases from its 2002 exemption level of \$1 Million to \$3.5 Million in 2009. In 2010 it is scheduled to be repealed. Further, the credit for state death taxes was gradually phased out and ultimately transformed into a deduction. One of the effects was a loss of revenue to the individual states.

The Maryland Estate Tax Launches Its Attack

In response to the federal government's actions and in order to recoup some of its lost revenue, the Maryland General Assembly partially decoupled from the federal estate tax. As a result, the Maryland estate tax exemption remains "frozen" at the 2002 exemption level of \$1 Million. However, it is an exemption from taxation only if the taxable estate is under \$1 Million. The general rule is that if the value of a Maryland taxable estate is over \$1 Million, **then the entire estate is taxable** for the purpose of assessing the Maryland estate tax and the \$1 Million Maryland exemption is not available (However, the method of calculating the Maryland estate tax results in a reduced rate of Maryland

estate tax payable on net estates of less than approximately \$1.4 Million). On the other hand, the federal rules provide that if a federal taxable estate is \$1 over the \$2 Million current federal exemption, only the \$1 will be subject to federal estate tax. **Accordingly, there currently exists a situation where an estate can be exempt from federal estate tax, but subject to Maryland estate tax.** For example, a taxable estate consisting of \$2 Million today will pay no federal estate tax, but will be liable for approximately \$100,000 of Maryland estate tax, to be paid within 9 months of a decedent's death.

What Assets Are At Stake

The value of a **Maryland resident's estate** includes every asset the decedent owned that is located in Maryland, including: real estate, personal property, P.O.D. accounts, all brokerage, bank and retirement accounts, partnership and LLC interests, pension plans and life insurance policies, as well as all assets other than real estate located outside of Maryland. The State of Maryland will seek to impose its estate tax on the combined value of all of these assets. As with the federal rules, there is an offsetting deduction for any assets to be distributed or paid to a decedent's spouse.

What you may not have considered is the fact that a **non-Maryland resident's estate** that owns real estate and certain other property located in Maryland **could be subject to Maryland estate tax.** If the value of a non-Maryland resident's estate exceeds \$1 Million, then the value of the Maryland real estate and certain other property will generate Maryland estate tax liability - even if the value of the Maryland real estate and certain other property by itself is less than \$1 Million.

(Continued on Back Cover)



It's a Family Affair:

The Importance of Proper Succession Planning

Oren D. Saltzman, Esq. | OSaltzman@AdelbergRudow.com

Many of Adelberg, Rudow, Dorf & Hendler's clients are owners of closely held family businesses who intend to pass their business interests onto future generations. Sometimes though, unforeseen circumstances arise which take us by surprise and can potentially have the most dramatic effect on a company. Proper succession planning in a family business ensures the long term legacy and profitability of a company.

By their nature, closely held business owners are wired with the determination and independence to control their business, and are typically fiercely competitive and detail-oriented. While running the day-to-day operations, they are constantly bombarded with a myriad of decisions - some with important future consequences. So, it is no wonder that most owners don't take the time to stop - breathe - and start planning for the most sensible exit strategy, which will protect their family in case of death.

The time to start thinking about the fate of a family owned business is right now. Timing for making decisions and succession planning depends on a number of factors, including whether there are other family members who can assume control of the company.

Recently, the Maryland Court of Special Appeals decided a case which may have a long range effect on familial transfers of assets. Consider the mythical "Paulie the Plumber" who is 53 years of age and who started "Down the Drain Plumbing Company" in 1988. He is divorced from his first wife, with whom he has a son who works in the business. Down the Drain has twenty five employees in total and things are going well - there are lots of leaks and clogged pipes to fix all around the Baltimore area. Paulie is

remarried to the lovely Wendy, who has three grown children of her own, although none working for this bustling plumbing operation. She wants to provide for the future of her children.

Paulie wants to keep his company running after his retirement, but does not want anyone interfering with his control. There is trouble looming over the horizon. Although Paulie has prepared a plan establishing a revocable trust containing all of his stock, and naming his son as sole beneficiary, he has not shared this plan with Wendy. Wendy believes that if she inherits a substantial portion of Paulie's assets, both her children and she will live comfortable lives.

Paulie suffers a sudden fatal heart attack at work, and the revocable trust kicks in so that Paulie's son believes he is now the new owner of Down the Drain. Wendy opens an estate and finds out that Paulie and she have spent most of Paulie's money on their comfortable life style. The company is the only asset of substantial value.

Paulie's son begins managing the company and keeps operations running. Wendy realizes that the only asset she may inherit is the company and elects to receive her Maryland statutory share of Paulie's estate - which is one third of Paulie's "net estate." Wendy claims she is entitled to what is called the "augmented estate," all assets owned by Paulie at the time of his death, including the assets contained within the revocable trust. A fight ensues between Wendy and Paulie's son over Down the Drain. This is not what Paulie wanted.

The Maryland Court of Special Appeals in Kathleen Sexton Schoukroun v. Maryse L. Karsenty & Bernadette Schoukroun ruled that excluding the

surviving spouse from a large portion of an estate by creating a revocable trust or POD account, even for the benefit of a child, is a fraud against the surviving spouse. Under this case, Wendy may be entitled to take control of the company depending upon the court's interpretation of this case.

The Schoukroun case is currently on appeal to the Maryland Court of Appeals, the highest appellate court in Maryland. If this decision is affirmed, Maryland estate planning attorneys will have to reevaluate how estate plans are created to ensure that their clients' intentions are properly carried out. We intend to follow this case and will update you as part of our continuing effort to keep clients aware of current legal trends.



TAX ALERT

Homestead Tax Credit

In 2007, the General Assembly enacted new legislation which requires homeowners to submit a one-time application in order to continue their eligibility for the Homestead Tax Credit. The homestead credit limits the amount of assessment increase on which a homeowner will pay property taxes in that tax year on the one property actually used as the owner's principal residence. All homeowners will receive an application when they receive notice that his/her property taxes are being reassessed.

Please contact us with any questions regarding the Homestead Tax Credit or the application process.



LAWatch | OF NOTE

Andrew Radding, Member of Adelberg, Rudow, Dorf & Hendler, LLC, was the Program Co-Chair for the Maryland State Bar Association's Annual Meeting, June 11-14, 2008 in Ocean City, Maryland. Mr. Radding is the President for the United States Attorney's Alumni Society of Maryland and the Secretary of the Bar Association of Baltimore City. Mr. Radding is the President of the Simon E. Sobeloff Society. He also chairs the Judicial Selection Committee of the Bar Association of Baltimore City. Mr. Radding participated in a panel on criminal law issues at the mid-year meeting of the MSBA and a panel on Judicial Selection at the MSBA's annual meeting. Mr. Radding also serves as Secretary of the Board of Trustees of the Baltimore Bar Foundation. Mr. Radding has been selected for the Daily Record's 2008 Leadership in Law award. This is the third year in a row that the Firm has been honored with the award (David B. Rudow in 2007 and Jerald B. Lurie in 2006).

Jerald B. Lurie, Member of Adelberg, Rudow, Dorf & Hendler, LLC, and Co-Chair of the MSBA Committee on Judicial Appointments, received the 2008 MSBA Distinguished Service Award. The Award, presented by the MSBA Board of Governors, recognizes Mr. Lurie's extraordinary effort and dedication, by interviewing hundreds of applicants for multiple judicial offices across the state. Mr. Lurie was also recognized on May 21, 2008 by the Maryland Volunteer Lawyers Services for his 15 years of service (1993-2008). Mr. Lurie served as Chair of and Panelist on a program entitled "So You Want to be a Judge" at the Maryland State Bar Association's Annual Meeting in Ocean City, on June 12, 2008. He also served as Chair of the 2008 Annual Meeting of the Maryland Bar Foundation Fellows meeting on June 13, 2008, where he received a

Certificate of Appreciation for tenure as Chair of the Fellows (2007-2008).

Yale M. Ginsburg, Member of Adelberg, Rudow, Dorf & Hendler, LLC, is presenting for the National Business Institute in December 2008 on "Probate Practice: The Essential Basics."

Marc B. Noren, Member of Adelberg, Rudow, Dorf & Hendler, LLC, was inducted as a Fellow of the Maryland Bar Foundation. He is immediate past chair of the MSBA Family & Juvenile Law Section Council.

Renée Bronfein Ades, Member of Adelberg, Rudow, Dorf & Hendler, LLC, was elected to a three year term on the MSBA Family & Juvenile Law Section Council.

Carol G. Cooper, Associate at Adelberg, Rudow, Dorf & Hendler, LLC, was named as the 2008-2009 Family Law Committee Chair for the Bar Association of Baltimore City. She is the fourth lawyer from Adelberg, Rudow, Dorf & Hendler to receive this honor following Michael G. Hendler, Marc B. Noren, and Renée Bronfein Ades.

Robert M. Horne, Associate at Adelberg, Rudow, Dorf & Hendler, LLC, was a panelist for the National Business Institute's program "The Probate Process From Start to Finish" in June 2008.

Leslie J. Polt, Of Counsel to Adelberg, Rudow, Dorf & Hendler, LLC, is a member of the American Bar Association's Business Law Section Task Force on Deposit Account Control Agreements, and Reporter for the "Revocable Standing Medicare/Medicaid Deposit Account Service Agreement" form being developed by the Task Force as a standard banking document. He was a panelist on the program presented by the Task Force at

the Annual Meeting of the American Bar Association in New York in August 2008. Mr. Polt is also the Maryland coordinator for the Survey of State Commercial Lending Laws sponsored by the Commercial Finance Committee of the ABA's Business Law Section.

Adelberg, Rudow, Dorf & Hendler, LLC is pleased to announce that three of its lawyers have been selected for inclusion in The Best Lawyers in America® (Best Lawyers) list:



- **David B. Rudow** for Corporate Law, Tax Law and Trusts and Estates;
- **Paul A. Dorf** for Alternative Dispute Resolution; and
- **Michael G. Hendler**, Managing Member, for Family Law

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A. To better serve you and do our part for the environment, we ask that you send us your e-mail address(es) to Contact@AdelbergRudow.com. This information will be used to update your profile in our database.

B. Also, client and industry information (like this newsletter) can often be communicated more efficiently and effectively through e-mail. And now ARD&H offers e-billing. If you prefer e-billing, please advise us by e-mail.

All responders to A or B will be entered into a raffle for four free Aquarium admission tickets for 2008.

For more information, news and updates, please visit us online at www.AdelbergRudow.com

Maryland Flexible Leave Act



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- Are you engaged in a business, profession, trade or other enterprise in Maryland;
- Do you employ 15 or more individuals; and
- Do your employees earn leave pursuant to an employer policy or a collective bargaining agreement (“Procedures”)?

If so, then you are an employer covered by the new Maryland Flexible Leave Act (“Act”).

In order to comply with the Act, beginning October 1, 2008, a covered employer must allow any employee who has earned leave (personal, sick, vacation, etc.) to use earned leave (with pay) to care for an ill child, spouse or parent (even if the leave was earned prior to October 1, 2008); however, an employee is not entitled to use any leave not yet earned.

The Act also provides that:

If an employee earns more than one type of leave, the employee has the right to choose the type and amount of leave to be used;

In order for an employee to use leave under the Act, the employee must comply with the terms of any Procedures;

The terms of the Procedures shall prevail if the terms of Procedures provide paid leave that is equal to or greater than the paid leave provided under the Act; and

An employer is prohibited from threatening to, or actually, fire, demote, suspend or otherwise discipline employees who exercise rights under the Act, complain of a violation of the Act or participate in an investigation or action resulting from such complaint.

Finally, the Act does not affect any leave granted or available under the pre-existing Family and Medical Leave Act.

Unfortunately, the Act fails to specifically address: how much/what type of notice (written/telephonic) an employee is required to provide to an employer prior to using leave under the Act; what types of illness are covered; and whether or not an employer may require the employee to provide verification of the illness. Furthermore, is leave from an “employee leave bank” considered leave under the Act?

We suggest a covered employer should:

- Review its Procedures to determine:
 - the types of leave available to employees;
 - which employees are entitled to earn leave;
 - the rates at which employees earn leave;
 - whether employees are able to carry leave over from year-to-year; etc.
- Update leave Procedures to reflect that any form of earned leave can be taken with pay for the purpose of caring for an ill child, spouse or parent.
- Enforce on a consistent basis any Procedures.
- Train all human resources personnel to understand how and when leave must be granted under the Act.



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many complex requirements of local, state and federal government, pertaining to:

- Estates & Trusts
- Family Law
- Construction
- Tax
- Real Estate
- Business & Commercial Transactions
- Business & Civil Litigation
- Intellectual Property
- Employment Law
- And more

We offer a complete range of legal services for businesses and individuals, including:

- Real estate development, acquisition and land use opportunities;
- Mergers and Acquisitions;
- New estate planning and related documents;
- Complying with business and tax requirements;
- Intellectual Property development and protection; and
- Litigation to protect your bottom line.

We work closely with real estate brokers, architects, developers and engineers to address our clients' regional development issues. We also work with trusted accountants, financial planners and insurance agents to provide a multi-disciplinary approach to assist our clients, and call upon the professional resources of MSI Global Alliance, a cross-border cooperation between independent professional service firms, which allows us to provide national and international capabilities when necessary.

For more information, contact

Oren D. Saltzman at
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Mr. Saltzman is a Member at ARD&H's Howard County office and serves as a Member of the Fort Meade Regional Growth Management Committee.



The Maryland Estate Tax: *An Assault on Maryland's Middle Class* (Continued from p. 7)

<http://www.jdsupra.com/postdocumentviewer.aspx?fid=522b344f-9b7e-486f-97bd-a2db8826277b>

The Maryland Taxpayer Strikes Back

Due to Maryland's relatively recent decoupling from the federal estate tax, the first step you should take is to consult with your estate planning attorney to discuss the effect of the Maryland estate tax on your current plan.

There are several strategies that can be implemented to limit the effect of the Maryland estate tax on your estate. In legislation that became effective June 1, 2006, the Maryland General Assembly provided Maryland residents with an estate planning tool that married couples may want to consider, called a Maryland-only Qualified Terminable Interest Property ("QTIP") Trust. The use of a Maryland-only QTIP Trust in combination with a federal Bypass Trust utilizes the entire amount of the federal exemption equivalent (currently \$2 Million) under the estate of the first

spouse to die. The Maryland-only QTIP Trust is not subject to Maryland estate tax because it is treated as a marital transfer for Maryland estate tax purposes. The result is that the full \$2 Million federal credit of the first spouse to die is utilized for federal purposes, and no Maryland estate tax is due at that time.

Note however, that the Maryland estate tax liability of the estate of the first spouse to die does not disappear by using the Maryland-only QTIP Trust. Rather, the Maryland estate tax liability is essentially deferred until the death of the surviving spouse.

Another effective planning strategy is lifetime gifting. Currently, Maryland does not impose a state gift tax (unlike the federal government, which imposes a gift tax for the lifetime transfer of assets aggregately exceeding \$1 Million in value, subject to certain exceptions). Thus, it is possible to gift up to \$1 Million

from your estate free of federal and Maryland gift taxes during your lifetime and then transfer another \$1 Million free of both federal and Maryland estate taxes at your death. This type of planning can be structured in several different ways to meet your specific goals. Your individual options should be discussed with your estate planning attorney.

The Victor?

Remember, you have worked hard during your lifetime to acquire what you have and you have paid income taxes on your earnings each year. Now the State of Maryland wants to tax you for a second time upon your death - essentially having its cake and eating it too. Only you can protect your estate from the Comptroller's reach. Don't let the State of Maryland tax your estate on assets even the federal government won't tax.



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