

**Business Planning Committee Meeting**  
**Thursday, November 21, 2013**  
**Saul Ewing Office**

21 people present, including 4 panelists (Dennis Reardon, Bob Louis, Jon Sokoloff, Marguerite Weese)

**Discussion:**

- **Medicare Tax on Net Investment Income**
  - Handout from Jon Sokoloff
  - 3.8% generally applies to those over the threshold of \$250k married filing jointly
  - Don't forget about the additional 5% on the cap gains and dividends to those over the \$450k threshold (married filing jointly)
    - This is the killer you really want to plan around
  - Page 5 of the handout addresses ESBTs and QSSTs
  
- **Current approach to planning versus Old approach**
  - The income tax environment in addition to the "permanent" estate tax has changed everything
  - Old Paradigm: get money out of estate – don't care about income tax
  - New Paradigm: the income tax could be higher than estate tax rate, so watch what you're doing
  
- **Breakeven Point for Business Owners Planning**
  - Handouts from Dennis Reardon in the form of memos
  - Think twice about what you are doing and what your objectives are. Think carefully about what the likelihood is of actually attaining your objectives as well as what kind of harm you could do if you do not attain your objectives. Then plan from there.
  - Higher basis of property = less risk in planning
  - Anything discounted is better because it requires much less growth to attain the breakeven point
  
- **State Tax Rates**
  - State tax rates need to be factored in – both income tax rates as well as estate/inheritance tax rates
  - PA – we are lucky with a 3.07% flat income tax rate and relatively low inheritance tax
  - Should ask clients:
    - Where do you live now and more importantly where do you intend to live
    - Where do your children live now and where do they intend to live
  
- **Selling or Gifting Family Business**
  - What's the basis? Most family businesses have really low basis!
  - When is the business going to be sold? If ever?
  - Is the next generation really going to take over?
  - What's the prospect of selling to a third party?
  - Will the business value grow? If so, how much? What if something happens to the owner? Might the value decrease? Don't want to waste exemption
  - What is the domestic situation of the current business owner and what about owners' children? Married? Divorced?

- Build in annual review of this plan because there are so many variables that can make a large difference
- **Has Portability changed the way we plan for Family businesses?**
  - Portability not indexed for inflation
  - Lay person or local attorney/next attorney may not know that the first to die's estate must file a return to save the exemption
- **Estate Value & Spending**
  - Have a realistic conversation with client about spending – how much do they spend? 4%? 5%?
  - It's possible for clients to spend their way out of an estate problem
  - Never want to waste exemption if not estate tax problem
- **Business Planning Committee – Generally**
  - Co-Chairs: Bob Louis & Dennis Reardon
  - Quarterly meetings with discussions to be led by either a member of the committee or an outside speaker (similar set up to the tax committee)
  - Mission is to help trust & estate attorneys become more familiar with business planning & succession because this often intersects with the conversations we have with clients
  - What topics do people want to learn about?
  - Does anyone have a speaker in mind or someone at their company or firm who would be a good presenter on a relevant topic?
    - Doesn't need to be an attorney! Can be an investment banker, a business psychologist, an analyst, a CPA, etc
  - Ideas? Questions? Comments?
    - Email any one of the following:
      - Bob Louis: [RLouis@Saul.com](mailto:RLouis@Saul.com)
      - Dennis Reardon: [DReardon@DReardonLaw.com](mailto:DReardon@DReardonLaw.com)