

[Client title such as Mr. or Ms. or Mr. and Mrs.] [Client name]

Dear [Name of Client(s)]

You will recall that your estate planning documents divide the estate of the first spouse to die into two broad portions. One portion is equal to the deceased spouse's unused estate tax exemption amount. The other portion is equal to what is called the "optimum" marital deduction. Neither portion will be subject to estate tax when the first spouse dies even if there is an estate tax—the estate tax exemption portion (sometimes called the "credit shelter" or "bypass" portion) escapes tax because it takes advantage of the estate tax exemption of the spouse dying first. The estate tax exemption portion also escapes estate taxation when the surviving spouse dies. The marital deduction portion is not subject to estate tax when the first of you passes on, but is subject to estate tax when the surviving spouse dies. This is the common way most married couples have disposed of their wealth for many years. We continue to believe that is appropriate for you. However, a change in the tax law that has just become effective and will last only for this year suggests that it may be appropriate for you come in and visit us to see if your documents should be modified.

This year (2010) there will be no Federal estate tax (although some states will retain independent estate tax systems). It may be uncertain how the provisions of your estate planning documents will be interpreted if there is no estate tax. This is because several provisions of your documents are phrased in terms of tax concepts, such as the estate tax exemption amount and marital deduction. Because those tax concepts are not in the law this year, there may be some question as to what your documents mean and how your property is disposed of. That in turn may cause tax questions to arise.

Another change that is scheduled to take effect next year relates to the income tax basis of inherited assets. Income tax basis is the value from which gain or loss on assets sold is measured. Under the law up until this year, the income tax basis of an asset is changed to its current value when its owner dies, as a general rule. But this year, this automatic change in basis will not occur. Rather, the deceased owner's income tax basis in assets will "carry over" to the persons who inherit the assets. It may be appropriate for your documents to be revised in order to take into account the possibility of carry over basis.

Therefore, we think it is important for you to consider coming in and discussing these matters with us.

If you would like to meet, please call us to arrange a meeting. We look forward to seeing you.

Sincerely yours,

[Name of lawyer]