THE FILIPINO EXPRESS
1995

Estate Planning: Security for Your Family

By Reuben Seguritan

Many people are often surprised at how much their assets can add up to. Of course, that goes only for those who bother to plan their estates. An average working person with a house, a pension plan and life insurance could very well be a millionaire. With assets amounting to this much, one can imagine how high estate taxes can go. That's quite a big responsibility for the beneficiaries of your estate, who not only have to deal with your passing, but also have to grapple with tax problems in your wake.

Estate taxes can run as high as 55%, and if you have an estate that is worth more than $600,000, you'd best consider planning your estate, unless you want the IRS to be your main beneficiary. Without estate planning, assets from your estate would go to the payment of taxes when it is passed on to your heirs. This is called tax erosion.

Your main goal when you plan your estate is to save on taxes so that you can make sure that the biggest portion of your estate goes to your heirs, and not the IRS. The best way to save on taxes is by reducing the size of your estate. This is not to say that you shouldn't put away as much as you want to, though. It only means that you should strategically distribute your assets in such a way that, along with your estate, your beneficiaries inherit the smallest tax liabilities possible. To reduce your estate, you must first know its size.

In order to determine your net estate (i.e. your gross estate less taxes), you will have to have an estimate of the amount of estate taxes that will have to be paid upon transfer of your estate to your beneficiaries. Of the various estate taxes that have to be considered, the biggest one would be the federal estate tax, which is imposed upon your taxable estate. (Gross estate less deductions and exemptions)

The federal estate tax is the tax on the transfer of property at death. State taxes would include a real property tax and what is called an *estate, inheritance* or *succession* tax. Any income your beneficiaries will receive from the property received from your estate is also taxable when it is added to their other taxable income. And if you own property in a foreign country, or have stocks in a foreign corporation, you also have to consider the taxes that are charged in that country.

Most people consider their gross estate to be the aggregate of all property and assets that they own. For tax purposes, gross estate may cover property that you don't even own. For example, you would be held liable for any taxes on property over which you had the general power or right to designate who inherits the estate. Other items which may also be included in your gross estate would be annuities, jointly held property, insurance (on your life as well as someone else's), income due you after your demise, and any generation-skipping trusts.

Your taxable estate would then comprise your gross estate less deductions and exemptions. One such deduction would obviously be funeral expenses and expenses incurred in the administration of your estate, such as attorney's fees and executor's commissions. Another would be any outstanding debts including mortgages, utility fees or unpaid taxes. All of these expenses and debts deducted from your gross estate will give you your gross *adjusted* estate, from which further deductions are taken to come up with your net estate. The charitable deduction is one example of these deductions.

The marital deduction, which exempts a certain portion of the estate from estate taxes, is probably the most substantial of all. Before 1982, the maximum marital deduction was $250,000 or 50 percent of the gross adjusted estate, whichever was greater. This deduction is allowed for property that passes to your spouse and becomes includable with her taxable estate when she dies; insurance proceeds payable to your spouse; half of your property in cases of community property and property given to her in trust. Ownership of life insurance is something which can be transferred to a trust.

Federal unified credit is another valuable tool in reducing estate taxes. The old law exempted any estates of $600,000 or less from the federal estate tax. By the year 2006, that exemption is expected to be $1million, starting with an increase of $25,000 from the current $600,000 next year. The exemption for qualified family businesses will be raised to $1.3 million next year.

There are really only two basic steps in avoiding tax erosion. The first would involve the determination of estate taxes, both federal and state. The second step would be reducing your estate by properly distributing and/or assigning your assets. The hard part is doing them right, and to do this it would not be prudent to proceed without first consulting a tax expert. You need to speak to someone who can provide you with all the options that are available to you and present a plan that best suits your needs. More importantly, make sure that you review your estate plan every time there is new relevant legislation. This way you can make the most of any laws that would work in your favor and ensure that your family gets their fair share of your estate.