

Landowners and Estate Taxes in the North Central Washington Real Estate Boom

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As property values climb, landowners should include estate tax analysis in their estate and business succession plans.

The amount of wealth an individual can pass to their heirs free of estate taxes has been increasing from \$600,000 per person, to \$1,000,000, then \$1,500,000 and now \$2,000,000. The \$2,000,000 personal limits for individuals is expected to remain unchanged for the foreseeable future for the state of Washington estate tax. The federal levels are expected to continue to change. In 2009 the federal limits will to climb to \$3,500,000, go away altogether for the year 2010, and then return in 2011 at the lower amount of \$1,000,000. Legislators, estate planning lawyers and academics anticipate the federal estate tax rules will substantially change once more before 2010, although no one currently agrees as to what those changes will be.

Armed with the new more robust estate tax limits, many landowners felt they could finally ignore the estate tax specter. However following low interest rates, or high prices in the urban areas, or a healthy stock market, or aging baby boomer retirees, or inflation, or a full moon, or whatever, property values began climbing skyward. Substantial increases in value can be seen everywhere for property suitable for houses. Vacation home property values are heading into the stratosphere.

Estate tax rates are graduated. State of Washington estate tax rates range from 10% to 18%. Federal estate tax rates ranges from 18% to 47%. In larger estates, the combined state and federal estate tax rates can be as high as 61%.

What are some tools for minimizing the risks of estate taxes:

1. Use of wills utilizing special estate tax savings trusts, known as Credit Trusts, Credit Shelter Trusts or Disclaimer Trusts. These trusts, if drafted correctly, allow married couples to double the personal estate tax exemption amount, and thereby double the amount of assets which can be sheltered free of estate taxes.

2. Gifting ownership interests in the property to family members to reduce the size of the donor's estate. Care must be taken to properly document the value of any amounts given, as gifts to any one person in excess of \$12,000 per year have estate tax consequences to the donor. Where the property will become owned by multiple family members, use of a limited liability company ("LLC") is recommended to provide an mechanism for control and management of the property once it has multiple owners. An LLC also allows greater gifting through taking advantage of certain valuation discounts available, known as marketability and minority discounts.

3. If the property is anticipated to remain in the family and has some ecological value like wildlife habitat, waterfront, open space, or other, consider use of conservation easements to preserve the properties natural attributes, allow the continued existing activities, and perhaps provide for some limited additional development. Such an easement can greatly reduce estate taxes without compromising the landowner's exclusive ownership of the property. It also can help to reduce property taxes.

4. Consider life insurance to pay unavoidable estate taxes. If there will not be enough liquidity to pay the estate taxes without your heirs mortgaging or selling the family farm or other valued asset, life insurance can be an option. Prior to purchasing any life insurance, careful consideration should be given to the additional estate taxes related to such insurance, as life insurance is included within the taxable estate of the deceased person. Tools are available to keep life insurance out of the insured's taxable estate.

All of these options have substantial legal and financial consequences. Through careful consideration of the options with your estate or business planning attorney and accountant, you can greatly reduce, if not eliminate, estate taxes and pass your property down to the next generation.