



HIGHWAY TO THE DANGER ZONE

BEN TALLMAN, USTCP, EA, NTPI FELLOW, BBA

NOVEMBER/DECEMBER 2021

Today's Discussion



- How SSA, DOL, State Unemployment, & IRS W&SB could fine you into bankruptcy
- Portability of Lifetime Estate Tax Exemption to prevent litigation with Beneficiaries
- Gifting Strategies between married couples
- Other great tax strategies
- Due Diligence Traps & Defensive Strategies

Today's Discussion



- Finish-up with a 4-Part Group Case Study that encourages participation and comments

So what is the Danger Zone?



- Protecting you from the agency “pile-on”
- DOL has a 125% Penalty that is added to the Penalty for not paying over-time
- IRS has a 100% Penalty for unpaid taxes on a domestic employee + over-time pay
- SSA can assess back-FICA taxes as far back as needed to cover SSA benefits on C/Gs
- Caregivers on W-2s – the only way to pay!

Highway to the Danger Zone



- So how important is Portability?
- It's the Beneficiaries you worry about!
- The Lifetime Estate Exemption will likely “sunset” back to \$5 million in 2026
- Example of Amy & Paul without using Portability and Form 706

Covering yourself on Portability Issues



- Surviving Spouse Questions
- How much to prepare Form 706?
- Use a Release Form if 706 not filed
- It's not about your position with the client, it's all about the beneficiaries and any estate tax liability

Gifting Strategies between married couples



- No limit on gifting between married couples (foreign spouse \$159k/yr.)
- Take advantage of stepped-up basis
- Must review appreciated R/E assets
- “Limited-life expectancy strategy”

Life Insurance Conversion Strategy



- Rarely used conversion clause
- During AIDS epidemic converted to a terminal care policy
- Could also be converted to cover long-term care needs, like a nursing home or a caregiver

Net-loss Tax Return Strategy



- If a net loss results from excess caregiver, medical, or nursing home expense, you must offset the loss
- If the taxpayer has retirement accounts (like IRAs, SEPs, or 401k) withdraw \$ to cover the loss and consider a ROTH conversion.

Supplemental Health Insurance Coverage



- Medicare recipients only cover 80%
- During 'open season', consider a supplemental policy to cover 20%
- Supplemental policies usually run about \$200/month and save the taxpayer on hospital stays and major medical procedures

Due Diligence Standards



- Circular 230, Section 10.22 change from preparer to verifier
- Using “work papers” are essential
- Need to ask some questions and document the taxpayer’s answers
- Organizers are not enough per OPR mandate

Conflict of Interest Statement



- Only consider if you can prepare one party's return without being adverse or destructive to another
- If so, all parties must sign the stmt.
- If not, withdraw from all conflicted returns, or just keep one of them
- This falls under Section 10.29

Educational Forms & Statements



- Conflict of Interest Statement
- Form 706 Release Statement
- Representation Engagement Letter
- Section 7216 Consent Disclosure
- Confidentiality Notice

Group Case Study – Question 1



- Father has dementia and had a caregiver last year. No W-2 or 1099 issued on caregiver.
- Would you deduct the expense?
- Any ethical challenges?
- Suggestions for moving forward?

Group Case Study – Question 2



- Father's income for the next year is \$100,000. Caregiver agrees to W-2 if income grossed-up.
- Report income on W-2?
- What other filing requirements will be needed?
- Any ethical challenges?

Group Case Study – Question 3



- Caregiver deduction creates a negative income situation. IRAs and rental properties available.
- Are there strategies you can offer?
- Any problems you see or is it OK?
- Any other recommendations?

Group Case Study – Question 4



- Mid-November father's health in decline. Medicare B coverage. Upcoming medical expense.
- Any recommendations for additional medical coverage?
- Prudential \$300k paid-up ins. Policy. Any suggestions for transfer to a skilled care facility?

Questions?



BEN TALLMAN, USTCP, EA
ATLANTA, GA