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How much will you pay in Estate and Gift Tax?

Once the estate tax is overhauled in 2010, beneficiaries of estates will be faced with a new rule on assets they inherit.

Under the current law, when you die your heirs receive your assets with a "stepped-up" basis equal to the value of the asset on the date of your death. For example, assume you purchased a parcel of real estate for \$10,000.00, but it is worth \$50,000.00 when you die. Your beneficiaries use the \$50,000.00 value when they sell the real estate, so the \$40,000.00 gain escapes tax. In 2010 this "stepped-up" basis will apply to \$4.3 million in assets passing to a spouse and to \$1.3 million in assets inherited by non-spouses. This should be sufficient to escape tax in most estates. However, your original cost basis will apply to all assets over those limits. Just imagine the paperwork nightmare as you try to keep track of those assets that get a new basis and those that do not. Somehow tax simplification got lost here.

If things weren't complicated enough, even though the estate tax is phased-out, the gift tax is set to stay on the books. Congress was concerned that without a gift tax, wealthy taxpayers would make large gifts to family members in lower income tax brackets. To prevent this, even after the repeal of the estate tax, the law retains the gift tax with a \$1 million exemption.

Fortunately, President Obama appears to favor return to the present \$3.5 million exemption with a stepped-up basis after 2011. But Congress must act to change the law. Watch this space for later news.

Visit www.ProtectYourEstate.Net to learn more about **INHERITANCE HIJACKERS: Who Wants to Steal Your Estate and How to Protect It.**



Is your inheritance at risk? Take Attorney Adamski's eye opening quiz at www.ProtectYourEstate.Net to learn your risk of losing the inheritance you intend to give or expect to receive.

Special Survey

Please answer this question to help us better serve our clients.

What is your most burning question about inheritance or estate law?

Email your question to *Ask Bob* at AttyRCA@ProtectYourEstate.Net

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Ask Bob

Dear Bob, I want to make an iron clad will. Can my will provide that if anyone contests my will they are automatically disinherited, and they take nothing from the estate? Thank you, Henry from Sarasota.

Dear Henry, What you are describing is known as an "in terrorem" clause. The phrase means "in [order to] frighten" in Latin. It is designed to scare a person with complying with the terms of the will. At first look these clauses appear to be useful. Unfortunately, they are subject to abuse by inheritance hijackers who cause people to change their wills. For example, a hijacker may convince a frail person to make a new will naming them as the primary beneficiary with small gifts to others who the hijacker thinks may contest the new will. If the will contains an in terrorem clause, those receiving the small gifts will be discouraged from suing to overturn the will. They do not want to put their entire inheritance, small as it is, at risk.

Fortunately, these clauses are outlawed in many states, including Florida. Some states, including California, are phasing out the use of these clauses. In those states where the in terrorem clause is alive and well hijackers will continue to have an

advantage.

For more information on Attorney Adamski and inheritance law go to
www.RCAdamski.com where there is a wealth of information.
