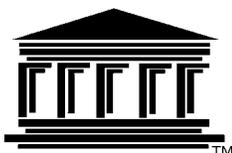


OAST & HOOK

Offices in
Portsmouth, Virginia
and
Virginia Beach, Virginia
Tel: 757-399-7506
Fax: 757-397-1267
E-mail: eln@oasthook.com



Member, National Academy
of Elder Law Attorneys

INSIDE THIS ISSUE

- Highlights of the Tax Increase Prevention Act
- Announcements
- Oast & Hook
- Distribution of This Newsletter

Editor
Sandra L. Smith
Attorney at Law

HIGHLIGHTS OF THE TAX INCREASE PREVENTION ACT BY LETHA SGRITTA

On May 17, 2006, President George Bush signed the Tax Increase Prevention and Reconciliation Act of 2005 (also known as the "Tax Increase Prevention Act" or the "Act"). While the Tax Increase Prevention Act did not make huge sweeping changes in our current tax structure, there are a few provisions that Oast & Hook would like to highlight.

Perhaps the most important provision of the Act is that the favorable 10% or 15% tax rate on capital gains has been extended for two years. The favorable capital gains rate was originally scheduled to be effective only through the year 2008; the Act now extends this rate through year 2010. This may be beneficial to seniors who depend on their dividends or who sell their stocks to provide part of their monthly incomes.

The Act also increases the Alternative Minimum Tax (AMT) exemption amount to \$62,550 for married taxpayers and \$42,500 for single taxpayers, instead of returning to \$42,500 for married taxpayers and \$33,750 for single taxpayers as was originally scheduled. The AMT concept began as an idea to ensure that wealthy taxpayers would not escape taxation; however, the AMT has increasingly affected the middle class. Increasing this exemption will reduce the number of individuals who are subject to this tax.

Another significant portion of the Act deals with the "kiddie tax." Prior to the Act, a parent or grandparent could invest for a child or grandchild by holding the investments in a custodial account (called a UTMA account under the Uniform Transfer to Minors Act). Until a child turned 14 years of age, the first \$850 of investment gain was tax free, the next \$850 was taxed at the child's income tax rate, and anything over the \$1,700 of investment income was subject to the "kiddie tax," which meant that the investment

income was taxed at the parents' tax rate. When the child turned 14, the first \$850 of investment gain was tax free, and any additional investment gain was taxed at the child's rate. This was a beneficial way to tax investment gain, because a 14 year old child's tax rate was typically low. As the child aged, the investments could be sold, or the income removed, to assist with college expenses, and the investment gain would be taxed at the child's lower rate.

The new "kiddie tax" delays taxing investment gain at the child's favorable tax rate until the child turns 18 years of age. Not only does this provision extend the period that income over \$1,700 is taxed at the parents' rate, but the typical 18 year old normally has a job of some kind. This means that the child's tax rate, although lower than the parents' rate, may be higher than at age 14, thus requiring the child to pay more tax than the parents anticipated at the time the custodial account was established.

Changes to the "kiddie tax" will affect parents and grandparents who opened custodial accounts for a child's or grandchild's education. The custodians will have to wait longer to sell the investments for the child's use if the parents want to take advantage of the child's lower tax rate. This may be problematic if the market is depressed at the time the child turns 18. Prior to the Act, a parent could begin to sell the investments or remove income and have the investment gains taxed at the child's low rate anytime after the child turned 14. Now the investments should not be sold or the income removed until the child turns 18. Unfortunately, this is when most people are required to pay the first installment for college tuition, and the parents will be forced to sell the investments or remove the income regardless of the market. Parents and grandparents contemplating saving for their children or grandchildren have new options, like Coverdell education savings accounts or tax-free 529 plans, to avoid these adverse tax consequences.

The Act eliminates the \$100,000 modified AGI (adjusted gross income) limit on conversions of traditional IRAs to Roth IRAs for tax years after December 31, 2009. For conversions taking place in 2010, the amount includible in gross income because of the conversion will be ratably included in the taxpayer's 2011 and 2012 gross income, unless the taxpayer elects otherwise. This provision will increase the number of people who are able to convert their traditional IRAs to Roth IRAs.

Although the Tax Increase Prevention Act did not make large changes to our tax structure, the extension of the capital gains rates, the increased AMT exemptions, and the changes to the "kiddie tax" may have an impact on *Elder Law News* readers. If you would like more information on the Act, or if you need assistance with planning in light of these recent developments, then please contact Oast & Hook.

Letha Sgritta is an attorney with Oast & Hook who concentrates her practice in the areas of elder law and disability law. Ms. Sgritta received her undergraduate degree from Purdue University, studied at Oxford (Oriel College) in England, and received her law degree from the University of Maine. Ms. Sgritta is licensed to practice law in North Carolina.

Announcements

Oast & Hook is pleased to announce that it is a sponsor for the 17th Annual Alzheimer's Education Conference to be held at Old Dominion University on June 7th and 8th. Oast & Hook will also present a workshop entitled "Legal Issues for Families Facing Alzheimer's Disease" on June 7th and a workshop entitled "Current Legal Issues – Competency Issues and the Law" on June 8th. For more information

about this conference, please call the Alzheimer's Association at 757-459-2405 or visit their website at www.alzseva.org.

William Oast and Sandra Smith will be the guest speakers on the "Ask the Expert" show on WTAR radio (850 AM) from 8:00 a.m. to 9:00 a.m. on May 27th.

Oast & Hook is pleased to announce its sponsorship of a series on WHRO-TV entitled "Boomers: Redefining Life After 50." This week's episode is "Retirement Reconsidered." It will be aired at 4:30 p.m., Saturday, May 27th.

Oast & Hook

Oast & Hook is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, investment and insurance advice, estate and trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, bill paying, account management and reporting, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at www.oasthook.com.

Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Elder Law News*, then please e-mail us at eln@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

Please visit us on the world wide web at:

www.oasthook.com

Our website contains information about Oast & Hook and an archive of our newsletters and other estate planning, estate administration, and elder law articles in searchable format.

Copyright © 2006 by Oast & Hook, P.C.

This newsletter is not intended as a substitute for legal counsel. While every precaution has been taken to make this newsletter accurate, we assume no responsibility for errors, omissions, or damages resulting from the use of the information in this newsletter.

This newsletter is produced to be sent electronically. If we currently fax you a copy of the Elder Law News but you prefer to receive it by e-mail, then please contact us at: eln@oasthook.com.

If you would like to be removed from our Elder Law News distribution list, please e-mail us at eln@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.