

DISCUSSION OUTLINE - IMPACT OF PORTABILITY AND INCREASED FET EXEMPTION

Philadelphia Probate & Trust Section Tax Committee

March 25, 2014 Meeting

1. Portability as safety net or planning tool?
2. IRA beneficiary planning (SS vs. Bypass Trust).
3. 100% Marital Deduction Plan (in part to allow 100% step-up on SS's death).
 - a. Beware - QTIP Trust must pay own tax even if portability elected (unless there is agreement w/ SS to apply exemption).
 - b. Remarriage of SS terminates benefits.
 - c. State estate tax considerations (i.e., NJ).
 - d. Risk losing use of first spouse's GST exemption (unless have reverse QTIP election).
 - e. Arbitrage of capital gains tax savings from step-up vs. exposure to FET on appreciation. (Part of risk is that portion of gains may be realized and taxed during SS's lifetime.)
4. Independent Executor/Trustee to make QTIP & Portability election.
5. Portability election extension until the end of 2014 for prior year deaths.
6. Experience w/ clients making portability election (CYA if no election?)
7. Experience w/ clients making gifts of DSUE amount from first spouse to die?
8. Trusts on first spouse's death for clients w/ assets under \$10M?
 - a. Disclaimer Trusts, Classic A/B Trust structure, Single QTIP Trust?
 - b. Single family unit vs. blended family.
 - c. Risk of potential reduced exemptions.
 - d. Risk of appreciation of assets or unexpected wealth.
 - e. Risk of remarriage & no prenup (or dissipation of assets despite prenup.)
 - f. Creditor protection considerations.