



FIRM NEWSLETTER DECEMBER 2001

As 2001 winds down we would like to take this opportunity to bring our clients and friends up-to-date on the firm, current legal developments of note, and to remind you of certain end of the year opportunities.

THE FIRM

We are pleased to present the enclosed firm brochure. It describes the areas of our practice and expertise, and we invite you to peruse it and welcome your comments. We are also proud to note a few professional developments: Melissa will be teaching a course in estate planning along with Alexander at the Graduate Tax Program of Boston University Law School. Lynn and Bob are the authors of the Legal Developments column published in the *Asset Protection Journal*, and Alexander has been elected as a fellow of the American College of Trust and Estate Counsel.

NEW DEVELOPMENTS

Protecting Your Assets from a Beneficiary's Creditors: In a case of "first impression", the Massachusetts Appeals court held in *Dwight v. Dwight* that a son's discretionary interest in a spendthrift trust created by his parent (an interest which is normally protected from the creditor of the beneficiary) is considered to be an "inheritance" by the son and as such could be the basis for an alimony award to the son's ex-spouse. Alexander and Melissa have questioned the soundness of the decision in an article that will appear this month in the *Massachusetts Lawyers Weekly*.

Estate Tax Revision and Repeal: In July we wrote to notify you of the new estate tax law and its general provisions. While our analysis of the law continues with an emphasis on reviewing our current approach in light of the changes that will occur over the next several years, there is one easy step you may take now to be ready for the repeal year of 2010 (and subsequent years if the repeal survives the "sunset" provision). We recommend that you begin to keep accurate records of the "basis" of all your assets. Briefly, basis is an amount attributable to the investment in property for tax purposes, and generally, the basis of purchased property is its cost. Under current law, inherited property gets a new basis equal to its value as of the decedent's death. This "fresh start" will disappear in 2010 and decedent's basis in the inherited property will be reportable to the IRS for estates larger than \$1.3 million. Obviously, it will be easier for your heirs if they can refer to your carefully kept basis records rather than trying to re-create the past.

State Real Estate Tax Credit for Certain Persons 65 and Over: For tax years beginning on or after January 1, 2001, an owner or renter of a principal residence located in Massachusetts who is age 65 or older and meets certain income limits, at the close of the taxable year, may be eligible to claim a

refundable credit against personal income taxes. For the year 2001, the maximum credit is \$385 and for subsequent tax years, the maximum credit amount is an amount equal to \$750 subject to a cost-of-living adjustment. Your accountant should be able to determine whether you qualify for the credit.

PLANNING OPPORTUNITIES

Strategic Gifting: Reminder! You have just a few weeks left to make your \$10,000 tax-free annual exclusion gifts for 2001 if you have not already done so. Although gifting any type of property will help to reduce your estate, gifting assets that are likely to appreciate, produce income, or have a discounted value for transfer tax purposes (e.g. partnership interests) will better leverage your annual exclusion gifts. Be aware that gifts made by check should be *cash*ed by the recipient prior to the end of the year.

Saving for College: Section 529 of the Internal Revenue Code offers a fairly simple and tax-effective way to save for college. It permits you to make annual exclusion gifts (up to \$50,000 so long as you file a gift tax return *and allocate the amount over a five year period*) into a qualified tuition plan. Generally, all income earned on the gifted monies is completely income tax free so long as the gifted funds are used by the student-beneficiary for qualified educational expenses.

Charitable Giving: As income tax rates are reduced over the next several years, the value of your charitable deduction is reduced with it, so it may be advisable to make charitable gifts sooner rather than later. Don't forget the IRS requirements to secure the deduction, such as receipts and qualified appraisals, where necessary. We would be happy to work with you to design your charitable giving plan to best meet your financial needs and charitable goals. Note, too, that Congress is considering a bill which would, among other things, allow individuals to make tax-free gifts to charities from an IRA.

Recognize Losses on Stocks You Want to Keep: If you own a stock which you want to hold as part of your investment portfolio but on which you would have a loss if you sold today, consider a plan of selling and repurchasing the stock to recognize the loss. If you sell the stock and wait *at least 30 days* to repurchase the same investment, then you can recognize the loss to the extent otherwise permissible on your income tax return. If you sell a stock position at a loss, but repurchase the same position *within 30 days* of the sale, then the deduction for the loss may be limited or even prohibited.