



Death and Taxes by Scott D. Abel

If the only sure things are death and taxes, then it should come as no surprise that our government has found a way to link both together.

Upon your death, regardless of what your will says, you are deemed to have disposed of all of your assets, triggering potential income tax issues. In this way, the government is guaranteed that your death will not allow you avoid you having to pay taxes on your property.

As a simple example, let's discuss your house. If you are like my parents, you bought your house many years ago and it has gone up in value. My parents purchased their home in 1977 for \$40,000.00 and sold it in 1999 for \$90,000.00. The difference between what they paid, and what it sold for, is known as a capital gain. In my example, the capital gain is \$50,000.00. A capital gain is considered income, and is taxed.

However, when you sell your house, you do not have to claim the capital gain as income, as you are allowed to take a principal residence exemption, which exempts the capital gain on your home from taxation.

If my parents did not sell their house, but died (sorry mom and dad), my parents would have been deemed to sell their house, despite their wills leaving the house to me and my sister equally. However, their estates would also be entitled to use the capital gain exemption so as to not have to pay any capital gain tax on their house.

If you are like my parents and also have a cabin or cottage, this further complicates matters. My parents bought their cabin in 1990 for \$30,000.00 and let's assume that today it is worth \$60,000.00. The capital gain is the difference between the two values, or \$30,000.00. Again, if my parents died, they would be deemed to dispose of both their house and cabin. The principal residence exemption could be used on their house, but that still leaves income tax to be paid on the capital gain for the cabin. Before my sister and I could own the cabin, if it is left to us in my parents' wills, all debts have to be paid, including income tax.

If all my parents owned was their house and their cabin, with no other assets to pay for the taxes, my sister and I would have to

each pay one-half of the tax on the cabin, or it would have to be sold and the money used to pay for the tax on the cabin.

Fortunately, my parents have savings which could be used to satisfy any capital gain tax without having to sell the cabin. But what if the capital gains were greater than my example of \$30,000.00? What if they had no other assets to use to pay the capital gains?

My sister and I may find ourselves in a situation in which other families have found themselves, being unable to keep the cabin.

Doing some early planning with your lawyer and financial advisor may prevent the above examples from happening to you. As with most things, some simple planning at the beginning can avoid severe consequences later on. While death and taxes may be a sure thing, doing some early planning can at least minimize the impact of those taxes upon your death.