J. DIMAURO LAW

Joseph D. DiMauro, LL.M.*
*LL.M, Masters in Tax Law

July 5, 2016

I hope you're doing well. First, and most importantly, I want to thank you for your referrals and for placing your trust in me to handle tax controversies and estate planning. I hope your clients are providing you with positive feedback as I strive to give them the attention they deserve. Choosing to narrow my practice area, allows me to personally handle all negotiations, resolutions, drafting, counseling, or any other aspect of their estate plan or tax controversy. Below you'll find some matters that I've handled:

TAX CONTROVERSIES:

Department of Labor (DOL) alleged that Taxpayer owed over $490,000 in Contributions, Interest, and Penalties. Taxpayer provided home care services. She also matched (or placed) caregivers with the elderly (grandma). After making a placement, Grandma paid the caregiver directly. Grandma also paid Taxpayer a finder's fee. The DOL argued that the caregivers were the taxpayer's employees despite the fact that grandma controlled and paid them directly. The DOL alleged that the caregiver must provide services outside the taxpayer's usual course of business. The taxpayer argued the caregiver services were not related to her placement services. The DOL disagreed and reasoned that although taxpayer provided placement services, she also provided caregiver services and therefore, the caregiver services were within the taxpayer's usual course of business. We settled for $100,000.

Taxpayer owed nearly $100,000 in Federal Income Tax liability (including interest and penalties). We prepared and filed an offer in compromise in the amount of $3,000. The IRS rejected our offer stating that taxpayer had the ability to pay in full. After calculating the taxpayer's future income and expenses, the IRS did not take into account the taxpayer's girlfriend's income as a non-liable household member. Taking into account his girlfriend would allow us to increase the allowable expenses. Further, the IRS determined that the value of the taxpayer's truck increased the offer. We argued that the truck should be ignored as it was an income producing asset, necessary to operate his construction business. After pointing out the relevant code sections, we agreed to include his girlfriend and exclude the truck from our calculations. We settled for $19,810.00.

Taxpayer owed slightly over $25,000 in Federal Income Tax liability (including interest and penalties). We prepared and filed an offer in compromise in the amount of $1,500. The taxpayer had over $10,000 in her retirement account. The IRS suggested increasing the offer to reflect approximately 70% of the account, or to approximately $8,500. We disagreed. After pointing out that the taxpayer was a single mother raising 2 children and that the retirement plan precluded any withdraws without a showing of hardship, we settled for $1,500.

(Plantsville) 860-426-9160 • (Rocky Hill) 860-757-3040 • (Bridgeport) 203-416-6513 • (Fax) 860-426-9161
937 South Main Street, Plantsville, CT 06479 • 46 Church Street, Rocky Hill, Connecticut, CT 06067
1116 Madison Avenue, Bridgeport, Connecticut, CT 06606 • joe@jdimaurolaw.com

Taxpayer owed the DRS over $220,000 in back sales and use tax liabilities, including a 25% intent to evade penalty. Taxpayer's have struggled to keep their convenient store operating. After purchasing the store, they continued the same accounting practices as they're predecessor. Without an accounting background, the taxpayer assumed that their accounting methods were acceptable. Taxpayer received a bill for over $220,000. We appealed. On appeal, we prepared and filed and offer in compromise arguing, among other things, that the taxpayer did not have the ability to pay and that he did not have the requisite state of mind to evade taxes. The business was struggling and the taxpayer merely continued his predecessor's accounting methods. We settled for $50,000.

ELDER LAW:

Mom and Dad own a home, a vacation home, and some stocks and cash. They're approaching their 70s. Both are in fairly good health. They inquire about protecting their assets in the event they enter a nursing home or otherwise require skilled care in their home. During our meetings, we discuss the tax and Medicaid implications of transferring their home to their children. Parents settle on transferring their home and retaining some powers, including, but not limited to, a right to use their home for life (Life Use). With a life use, the children will generally avoid capital gain taxes if the property is sold upon the parents' death. The parents also reserved a Special Power of Appointment – the right to transfer a child's interest to anyone other than themselves. The parents may exercise this power at death via their Will. For tax purposes, a special power of appointment makes the gift incomplete and therefore, if the property is sold while living, the property is treated as owned by the parents (i.e., principle residence exemption). Parents decided to take their plan a step further and protect their assets from their children's creditors, including, unforeseen divorces. Rather than merely transferring the home into the children's names, the home is transferred into a properly structured Irrevocable Trust agreement. We also drafted their Power of Attorneys, Health Care Directives, and other necessary documents to help maximize asset protection.

Dad has entered a nursing home. Mom requests that we assist her in filing for Medicaid benefits. Mom owns a home, $350,000 cash, some stocks, bonds, and life insurance policies. Mom believed that the majority of her assets were at risk of loss. After reviewing her financials, and many hours of number crunching, we managed to protect all of her assets. Under these crisis planning situations, although we find ways to minimize the damage, there is some of level of risk Mom must assume. We also changed their Wills, making sure that protected assets were not lost in the event Mom predeceased Dad.

Dad dies and Mom needs assistance with probate. We ask Mom to gather certain necessary documents and information. We assist her with the timely filing of her Will. Mom gathers all assets and values. Those values are strategically inputted on probate and Department of Revenue forms. We then file an accounting with Probate Court and ask the judge to distribute the assets consistent with Dad's Will. Judge agrees and executes a decree.

Mom enters a nursing home. She does not have the capacity to execute estate planning documents, including a Power of Attorney. We file a petition with Probate Court requesting that Mom's daughter be appointed Conservator over Mom's financial and health care affairs.

I appreciate your referrals and am very grateful to have a relationship with you and your staff. Should you have any questions or concerns, please feel free to contact me.