A MARITAL PROPERTY CLASSIFICATION AGREEMENT & A CREDIT SHELTER TRUST CAN TEAM UP TO SAVE YOU INCOME AND DEATH TAXES

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*** Attorney Timothy P. Crawford has been certified as a Certified Elder Law Attorney by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by The American Bar Association**

This pamphlet is issued to inform, not to advise. This pamphlet is not intended to render specific legal advice. For specific legal advice, see Attorney Timothy P. Crawford.

WHAT IS SO GOOD ABOUT
A MARITAL PROPERTY
CLASSIFICATION AGREEMENT?

Answer: It can result in a reduction of income taxes and Federal Estate Taxes!

Although many married people believed that they each owned one half of all of the family property, before 1986 it was not true. At the time of the death of the husband, the surviving spouse often discovered that the property in the name of the decedent belonged to the decedent.

Wisconsin's "Marital Property Law" became effective on January 1, 1986 and creates a presumption that income and property are owned equally by husband and wife, regardless of whose name is on the title. Now, at death, the property must be classified using Wisconsin's Marital Property Laws to determine the owner of the property. It is not automatically 50/50. This classification process is complicated and expensive. It requires the application of the very complicated Marital Property Classification Rules. Instead, classification can be made simple by signing a Marital Property Classification Agreement. A Marital Property Classification Agreement can classify the property as 50/50 marital property and, thus, receives very favorable income and death tax treatment.

CAPITAL GAINS TAX SAVINGS

Marital Property ownership provides an opportunity to save capital gain taxes. Capital gain tax is charged against the gain on the sale of property. This gain is called a capital gain. The capital gain is the difference between your tax basis (usually what you paid for the property) and what you sell it for.

Because of the existence of the Marital Property Classification Agreement, the tax basis of marital property assets is no longer the purchase price, but increases to 100% of the value of the property at the date of death. This will result in a 100% saving of capital gain taxes when the property is sold after the husband’s death.

A Marital Property Classification Agreement must exist to provide this 100% tax saving.

SAVE FEDERAL ESTATE
(DEATH) TAXES

A Marital Property Classification Agreement enhances the opportunity of a Revocable Living Trust to reduce the Federal death tax.

WHAT HAPPENS WHEN THE HUSBAND DIES?

When the husband dies, all of the assets of the estate can be given to the surviving spouse. There is no Wisconsin Inheritance Tax. There will be no Federal Estate Tax. This is made possible because of the Federal Estate Tax rule of an unlimited marital "spousal" deduction. This means that a husband can leave a wife any amount of money and there will be no Federal Estate Tax on the death of the husband. Be careful - this can create an increase in death taxes when the wife dies.

THE DEATH TAX PROBLEM

When the surviving spouse dies, if she has more than $5,430,000 (2015 – adjusted annually for inflation) in her death taxable estate, there will be a 40% federal death tax imposed on the amount over $5,430,000. However, with the creation of a new concept passed in the tax law changes at the time the Bush tax cuts were extended, effective January 1, 2013, the portion of the $5,430,000 (2015) exemption that was not used at the time of the death of the first spouse could be used at the time of the death of the surviving spouse. This feature is new and is called portability.

USE OF A CREDIT SHELTER TRUST

The combination of using a Marital Property Classification Agreement to classify your family's property as marital property and a Credit Shelter Trust can save death taxes. This must be done before the first spouse dies.

The Marital Property Classification Agreement could provide that each party owns one-half of certain property. This is a useful technique if the spouse with fewer assets were to die first.

The Credit Shelter Trust could provide for the wife to receive all of the income from the Trust. It could provide that the principal could be used for her maintenance, education, support and health. It could also provide that the surviving spouse could request 5% of the principal each year to be spent any way in which the surviving spouse would like to spend that money. It could also provide that at her death the remaining assets would be paid to their children.

PORTABILTIY

Using the new concept of portability, a couple's net worth could be $10,86000 and even if the spouse that dies first does not set up a Credit Shelter Trust, at the time of the death of the surviving spouse there would be no taxes due on a couple's $10,86000 estate.

Therefore, it is very important to change your existing trust to provide flexible planning in your Trust. We can do that for you.

What Is A Certified Elder Law Attorney?

Less than 20 attorneys from the state of Wisconsin have passed the national exam out of over 800 Elder Law Attorneys that we have in the state of Wisconsin.

Attorney Timothy P. Crawford was the first Attorney to have passed the exam to become **Board Certified**. He has been **Nationally Board Certified** as an **Elder Law Attorney** by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

What Is Your Next Step?

To get more information concerning the above, call for your free conference. Please call Attorney Timothy P. Crawford at 262-634-6659. We have offices located in Brookfield, Glendale, Milwaukee, Oak Creek and Racine.

(**AUGUST 2015**)