

Donald J. Weiss, Esquire, PC

ATTORNEY AT LAW

DONALD J. WEISS
PRESIDENT

Certified Public Accountant
LL.M. (Taxation) NYU

6 Hilloch Lane
Chadds Ford, PA 19317

Website: www.DonaldJWeiss.com
E-Mail: DonaldJWeissEsq@AOL.COM

CHADDS FORD OFFICE
FAX: 610-459-8653
PHONE: 610-459-8074

JUNE, 2009

Dear Clients and Friends,

1. **Real Estate Tax Assessment.** I have written before regarding your real estate tax assessment and I still see that people are not making the calculations. The deadline is August 1st so please make the simple calculation right now and if you are under-assessed, that's fine. However, don't call me in September to do a tax assessment appeal because it will be too late.

The calculation for 2010 appeals are simple. Figure out what you think you could sell your property for, multiply that by the CLR (Delaware County – 61%, Montgomery County – 54% and Chester County - 53%). The result is the highest your assessment should be, then compare that to what your assessment actually is. For example: If you could sell your house for \$400,000 and you live in Delaware County, your assessment should be no more than \$244,000. If your assessment is \$270,000, then you are over-assessed and you should call me immediately. If your assessment is \$210,000 then you are under-assessed and you should keep your mouth shut.

If your assessment is not off by at least 10%, it would be a tough fight. My experience is that the newer the property, the more likely it is over-assessed but I have found pockets where large communities have been over-assessed. This applies to your home and any commercial properties you may own. Right now most of the properties down the shore are being assessed at 100% of value so you should be able to look right at your assessment to see if you are over or under. The deadline in New Jersey for most places was April 1st.

2. **Title Insurance.** My title insurance company has seen a big jump in refinancing. We are licensed title agents in Pennsylvania and New Jersey and we can offer you approved attorney rates which are generally 10-15% cheaper than the regular reissue rate. So, if you are refinancing or buying a new property, before you let the mortgage broker or real estate agent order title insurance, get a quote and give my manager a call and get a comparison. We will handle settlements anywhere in the area at a convenient time for everyone. Call my Manager, Linda Craskey at 610-459-9001 to get a quote. Her office is in Chadds Ford at Rt. 1 and Rt 202.

3. **First Time Home Buyers.** I am sure you have heard of the first time home-buyer's credit if someone buys a home for the first time between January 1, 2009 and November 30, 2009. You are entitled to an \$8,000 refundable tax credit. If you know anyone who has done that, they are entitled to get it back immediately by amending their 2008 Tax Return and requesting the credit even though the home was not bought until 2009. Also, the definition of a first time home buyer is not the common definition but that if someone has not owned a home for three years, and they buy a new home in 2009, they are considered first time home buyers.

4. **Net operating loss carry-back.** A new rule just put into place permits you to carry back a net operating loss incurred in 2008 or 2009 five years whereas the old rule only enabled you to carry it back for two years. This way if you had a net operating loss in 2008, you can carry it back and get a refund on the taxes you paid in 2003, NOW.

see reverse side

5. **Titling of Bank Accounts.** When I was doing tax returns this year I was noticing quite a few people that had bank accounts and security accounts titled in their own name as opposed to joint names with your spouse. There could be estate reasons why you want to have large accounts titled individually but at least currently, with the Estate exemption being \$3.5 million, there is not likely any good reason to have smaller accounts titled in individual names. It can be an expensive inconvenience if one of you die. If everything is in joint names and you have one bank account or security account with \$4,000 in it titled in your name alone and you die, that means we are going to have to probate your Estate just to handle that account. That goes for almost any asset except for a car. There is a special provision to transfer a car from a dead spouse to the survivor but not so for bank accounts, CD's, savings bonds, or the like. Get those accounts out of your own name and into both names and if you have a savings bond that you've had for 40 years, cash them in.

6. **Opening your mail for Tax documents.** When you are sending your tax information, please, I am begging, open your mail, take it out of the envelope, throw out the junk and separate the information into separate piles for you and your kids. This year, I had a classic. One of my doctor clients sent me a stack of about 50 unopened envelopes that they thought were just 1099's. Well, I had one of my staff open them and separate the stuff. Low and behold, in the 50 envelopes, we found 6 un-cashed checks that were 2-3 months old, totaling over \$6,000, along with two unpaid bills. This is the first year that I represented the doctor so I asked whether they had done the same procedure with the prior tax preparer and whether he had come across any un-deposited checks. The answer was no so I would bet he never bothered to open the envelopes, which was my first inclination. Also, when I get stacks of security statements or interest statements, I have clients who put their kids stuff in the middle and sometimes I have accidentally included interest for a child on a parent's Return and fortunately I caught it. Please keep the kids stuff separate or circle their names so it highlights to me that it is something different.

7. **Where is your original Will?** Over the last two years, I have had three estates where we could not find the original Will for the deceased. In each case, the survivors thought they knew where the original was but when they went to look for it they found photo copies of the signed Will or photo copies of an unsigned Will. The presumption in Law is that if we can't find the original Will, it has been destroyed and without other corroborative evidence, such a situation will create an inconvenience whereby we would have to probate the Estate without a Will. That is not a terrible situation but it creates two potential sticky issues:

- a. If there is no Will, there is no Executor named and therefore an Administrator would have to be named and the Administrator stipulated by Law may not be the person the decedent wanted, and
- b. The Administrator may have to post bond which could be quite expensive and in the event of a sale of real estate, you have to get Court permission to do so which requires the filing of a Petition and Court hearing and could run several thousand dollars.

Therefore, it is paramount that you have the original, signed will, ***Not a photo copy and not a conformed copy.*** If you do not have one, don't assume that the lawyer has it. In the old days, lawyers kept the original Wills but that has long-since passed. I do not keep any client's Wills unless I am named in them. Occasionally other lawyers will call me and tell me that they represent the Estate and the client told them I have the original Will. I do not have any original Wills. You shouldn't let your lawyer keep it anyway. What if he dies and his widow sells his files to another lawyer or his office burns down? Make sure you have your original Will, Power of Attorney, Living Will and Medical Directive.

Respectfully,

DONALD J. WEISS, ESQUIRE

DJWcmg

see reverse side