

BASIC ESTATE PLANNING, PART 10: CAPITAL GAIN TAXES

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Real Wealth® Radio Network

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In our last segment we took a hard look at dealing with federal estate taxes when doing estate planning. Today, we'd like to focus a bit on minimizing or even avoiding capital gain taxes. There has been much talk about capital gain taxes. What are they? How much are they? When do they apply?

Capital gains tax applies when someone sells an asset for more than they paid for it. Imagine buying a stock a number of years ago for \$10 a share and now a number of years later that stock has appreciated to \$100 a share. Ninety dollars of that appreciation is called gain and that gain is subject to tax. If you held it long enough, the federal tax rate is 15 percent. In Wisconsin, the State capital gains tax is around 2-3 percent. That total tax of almost 20 percent of the gain has to go to Uncle Sam just because you chose to sell the stock and harvest the gain.

Guess what? Married couples can have an attorney design a "marital property agreement" to help reduce their capital gains tax exposure. Unfortunately, one of the spouses would have to die in order for the benefit to be realized. But, in the event of such a death, the surviving spouse has the opportunity to move assets without owing capital gains tax. For example, the assets may need to be sold or repositioned to replace a lost pension or reduced social security income. With a properly drafted marital property agreement, the surviving spouse can do this without owing capital gains taxes.

In Wisconsin, with a signed marital property agreement, the surviving spouse not only gets the assets without probate, but also receives what is called a stepped up cost basis in the assets. From our example earlier, the cost basis in the stock was \$10 a share and becomes \$100 a share, the current fair market value as of the date of death of the spouse. This means the surviving spouse can sell the stock and harvest the \$90 gain without any tax liability at all.

Here's another good example. We worked with a married couple who designed their estate plan to include a marital property agreement. Many years ago they bought a parcel of land for about \$35,000. When the husband died, the surviving spouse realized there was a lot of money tied up in the land and she was no longer able to maintain it. She needed to go to an assisted living facility at a cost of three to four thousand dollars per month. The land was now appraised at \$1.1 million. Can you envision the tax that would be due on the gain if that couple had sold that asset during their lifetime? That gain of more than \$1 million would have had a capital gains tax of \$200,000. With the marital property agreement in place, she was able to sell the property for more than \$1 million and all that gain had no tax liability. The power of this tool and strategy saved her over \$200,000, money that is working for her for the rest of her life and helping to pay for her assisted living care costs.

Remember, a team of *Real Wealth®* Advisors can assist you with minimizing capital gain taxes and guide you through the entire estate planning process. Be sure to work with a

qualified attorney who has spent a lot of time working in estate planning and with family issues instead of a general practitioner. A financial advisor can act as a quarterback and help you best take advantage of your individual financial circumstances.

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