

Harvell and Collins, P.A., Quarterly Report

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*It is our pleasure to send you the February Edition of our **NEWSLETTER** for the year 2010.*

*This **NEWSLETTER** will concentrate on various legal concepts and we would suggest that you keep it with your important files to refer to from time to time.*

*For those of you who have not received our **NEWSLETTER** in the past and are new clients, our **NEWSLETTER** attempts to keep you informed of any new developments in local, state, and federal law that might affect your personal life or your business. The **NEWSLETTER** will advise you on these developments and, when appropriate, make suggestions that will help you deal effectively with these changes. Also, the **NEWSLETTER** will serve as a way to communicate with you. As always, if you would like to have us address a particular matter, please feel free to call or write, and we will address that issue in a future **NEWSLETTER**.*

We are now archiving our Quarterly Newsletters on the website so that our clients may easily access this information once again by visiting our website at www.harvellandcollins.com.

Welcome to 2010!

On behalf of our office, we wish you a Happy 2010. It is the appropriate time to thank you for the opportunity to provide legal services to each and every one of you. We look forward to helping you this year as the need arises.

Estate Tax Changes

The federal estate and generation-skipping transfer taxes were repealed as of January 1, 2010. Consequently, no federal estate tax will apply to estates of individuals dying in 2010 and no generation-skipping tax will apply to transfers made in 2010.

The federal gift tax remains in effect; however, the highest applicable tax rate was decreased as of January 1, 2010, from 45% to 35%. As the law now stands, the federal estate and generation-skipping transfer taxes will return on January 1, 2011, with the rates (up to 55% percent, increased from the 45% percent rate in 2009) and exemptions (\$1,000,000.00 dollars down from the \$3,500,000.00 exemptions in 2009) that were in effect as of December 31, 2001.

There have been reports that Congress might act to keep the federal estate and generation-skipping taxes in place this year. However, no one knows whether Congress will act at all or, if it does, how the current state of repeal will be resolved. On one end of the spectrum, these taxes could be reinstated retroactively. On the other end, there may be no resolution at all, leaving 2010 a “tax-free” year for some.

If your Will or Trust refers to the “marital deduction”, the “federal estate tax”, the “unified credit”, the “estate tax exclusion” or “exemption” amount, the “credit equivalent” amount, the “credit shelter” amount or the “generation-skipping transfer tax exemption”, it should be reviewed promptly to ensure that your assets are distributed as you intended.

Another change takes effect in 2010 related to the “income tax basis” of inherited assets; that is, the value from which gain or loss is measured on inherited assets that are sold or exchanged.

Under the law in effect before January 1, 2010, the income tax basis of an inherited asset was its value at the death of its former owner. However, this year, a deceased owner’s income tax basis will “carry over” to the persons who inherit his or her assets, with the following adjustments: there will be a \$1.3 million “step-up” in basis for heirs, generally, and an additional \$3 million “step-up” in basis for property left to a surviving spouse. As the law now stands, on January 1, 2011, the income tax basis rules in effect in 2009 will return (i.e., the income tax basis of an inherited asset will be its value at the death of its former owner).

In view of these changes, we recommend that you call to schedule a meeting to review your estate planning documents in order to avoid the risk of unintended consequences.

Important Legal Considerations for 2010

- Review your Durable Power of Attorney and make sure that it is very detailed and specific. If you do not have a Durable Power of Attorney, contact our office to schedule an appointment.
- If you have a corporate book and/or limited liability company book, please review and confirm that annual minutes have been prepared.
- Verify all of your Beneficiary Designations on all life insurance policies, annuities, IRAs and 401ks.
- If your family owns a large tract of real property, consult a registered land surveyor relative to the need for a survey of the property.
- Keep a copy of all of your pertinent legal documents in one place.
- Be certain that your Last Will and Testament has been reviewed in the last five (5) years.
- Review the appointment of the legal guardian of any minor children.
- Confirm the registration and the title on all bank accounts and certificates of deposits.
- Be informed of statute of limitation issues, keeping in mind that the law is very time driven and if you have a legal issue, it is better to confront it now and not later.
- Confirm the registrations of title to all of your real property.
- Call the Secretary of State or go to the website at www.secretary.state.nc.us, and verify the good standing of your corporation and/or limited liability company.
- Consider whether it is finally the right time to incorporate your closely held sole proprietorship and make it a viable corporation.
- Should your family be utilizing the annual gift tax exclusion of \$13,000.00 per person per calendar year?
- Be careful of designations such as “payable on death” and “transfer on death” unless this is 100% consistent with your intentions.
- If you own a business, review your lending documents for personal guaranties so that you may identify possible sources of liability and plan for contingencies.
- Bankruptcy filing rose by approximately 35% nationwide last year. Consider the impact of a bankruptcy filing on jointly owned property.

- If you own an establishment that is open to the public, make sure you have a liability policy in place and keep it current.
- Consider titling your individual assets as tenants by the entirety to protect them from the reach of creditors.

“Let’s Talk Legal”
Radio Station: WTKF - 107.1 FM

As many of you know, Harvell and Collins, P.A., presents a talk radio program each and every Tuesday at 7:30 a.m. The purpose of the live radio program is to present to the listening audience legal information and allow the listeners to call in and ask questions. We have thus far discussed the following topics:

- Estate Planning
- Elder Law and Medicaid Planning
- Litigation in all Courts
- Estate Administration
- Real Estate Transactions
- Corporate and Business Transactions
- Family Law and Domestic Relations

If you have suggestions for a topic to be discussed, or if you have a question, give us a call. Or, call in during the show at 1-800-818-2255. Please join us on Tuesday mornings, bright and early on the talk station at WTKF - 107.1 FM.

We are now archiving our weekly radio program on the website so that our clients may listen once again to the program by visiting our website at www.harvellandcollins.com.

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Postscript

This writing is intended to generally familiarize you with various legal issues. The scope of this document is necessarily limited, and consultation with your attorney or tax advisor should always precede taking any action.