

Recent Developments in Estate Planning

CASE STUDY

FACTS

**NORTHERN CALIFORNIA REGIONAL FINANCIAL
PLANNING CONFERENCE**

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I. FACTS.

Dale and Maggie Bigbucks are both 61 years of age and in excellent health. They have two children, Joe age 35 and Amy age 29. Joe and Amy are both married. Joe has two sons, ages 3 and 1. Amy has a newborn daughter. Dale and Maggie reside in the family home in Los Gatos which they purchased twenty years ago and have since paid off the mortgage. They purchased a vacation home, for cash, in the Lake Tahoe area seven years ago where they now spend about 3-4 months a year. Dale, Maggie and the children would like to keep the Lake Tahoe home in the family but do not have a similar concern with the Los Gatos residence.

Dale is the president and CEO of SpamStopper Inc., a subchapter S corporation in which he and Maggie are the sole shareholders. Dale started the company ten years ago and it now employs about 30 people including his son Joe who is senior vice president and chief operating officer. Joe is a computer engineer and has worked for the company for the past eight years. Dale has developed the company into a very successful enterprise and would now like to turn the reins over to Joe and only work for the company on an as-needed consulting basis. Dale wants the transition to happen as smoothly as possible and would like to transfer by gift all of the stock to Joe but, at the same time, would like to treat his daughter fairly by gifting her some other property of equal value that is of her choosing.

Maggie is an artist and sculptor and works from a studio in her home. About ten years ago, her father passed away and left her and Dale six commercial properties (3 mini-mall/retail properties, 2 office buildings and a warehouse property) and some cash. They put the cash they inherited into their investment account and invested it appropriately. All of the properties are debt free and leased on a triple net basis. Maggie and Dale pay a property management company 6% of the gross rent to manage the properties and keep them as full with tenants as possible.

A fair market value balance sheet of their assets as of May 1, 2004 is as follows:

Cash \$1,200,000

Investments

Bond Portfolio 2,400,000

Stock Portfolio 17,125,000

SpamStopper Inc. 13,120,000

Dale's IRA 3,075,000

Maggie's IRA 750,000

Real Estate

Los Gatos Residence 3,000,000

Lake Tahoe Home 1,400,000

Retail Property #1 4,200,000

Retail Property #2 2,900,000

Retail Property #3 2,150,000

Office Building #1 10,090,000

Office Building #2 6,300,000

Warehouse 2,340,000

Maggie's Artwork

Inventory — to be sold 50,000

Total Assets \$71,000,000

Total Liabilities \$0

Total Equity \$71,000,000

Gross Income for the 2003 calendar year is as follows:

Wages/Bonuses (Dale) \$700,000

Sales — Art (Maggie) 50,000

Interest Income 100,000

Dividend Income 120,000

Rental Income 3,200,000

2003 Total \$4,170,000

Without any changes to their assets in 2004, Dale and Maggie expect their 2004 income to be roughly the same. SpamStopper, Inc. typically makes quarterly and year-end bonuses to Dale, Joe and other key employees in order to zero-out the company's net income each year.

About ten years ago Dale and Maggie established a minimal estate plan consisting of their Wills, durable powers of attorney, health care directives, a revocable living a/b/c trust and an Irrevocable Life Insurance Trust which holds a second-to-die whole life policy with a death benefit of \$3 million and a cash value of \$2 million. The policy now generates sufficient dividends to pay the annual premium. At the time they established this plan, neither of them wished to proceed with any other financial or estate planning given their busy schedules. Dale and Maggie have now come to you committed to putting a plan in place that will minimize federal and state estate taxes, provide equally for their children and grandchildren and make charitable gifts both during their lifetimes and upon their deaths.

If both Dale and Maggie were to die today, their estates would be subject to roughly \$32,000,000 of federal estate tax.