STEVENS & BRAND LLP

ESTATE & ELDER LAW NEWSLETTER

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Kansas Estate Tax

Kansas residents and individuals owning property having a tax situs in the State of Kansas should understand that the Kansas Estate Tax operates independently of the Federal Estate Tax. "Permanent" repeal of the Federal Estate Tax (currently pending before the United States Senate), should that occur, will not affect the Kansas Estate Tax.

For decedents dying in 2005, a Kansas Estate Tax Return must be filed if the decedent's *gross estate* exceeds $950,000. If deductions bring the taxable estate below $950,000 no Kansas estate taxes will be owed. The Kansas Estate Tax for a hypothetical decedent dying in 2005 with a *taxable estate* of $1,000,000 is $19,500. If the *taxable estate* is $1,500,000, the Kansas Estate Tax increases sharply to $64,400. Commencing in 2006, the filing threshold and tax payment threshold increases to $1,000,000. A decedent dying in 2006 with a *taxable estate* of $1,000,000 will owe no Kansas Estate Tax, but a *taxable estate* of $1,500,000 incurs the same $64,400 Kansas Estate Tax liability as in 2005.

For decedents dying in 2007 and 2008, a Kansas Estate Tax Return need not be filed and no Kansas Estate Tax is owed if the *gross estate* is $2,000,000 or less. Once that threshold is exceeded, however, the Kansas Estate Tax is substantial. For instance, a hypothetical *gross estate* of $2,000,001 that produces a *taxable estate* of $1,900,000 will owe $92,400 in Kansas Estate Tax. On the other hand, a hypothetical *gross estate* of $2,000,000 (one dollar less) that produces the same *taxable estate* of $1,900,000 (the same amount) will owe no Kansas Estate Tax.

It is entirely possible, perhaps likely, that the Kansas Legislature will modify the Kansas Estate Tax within the next several years. It is not possible to predict what will change, but the current law continues to apply until there is a change. In any event, individuals should consider whether their current estate plan minimizes the impact of Kansas Estate Taxes. For instance, married couples should review wills and trusts that contain estate tax provisions and also review their asset allocation between them.

Peter K. Curran

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TEN THINGS YOU SHOULD KNOW ABOUT THE MEDICARE PRESCRIPTION DRUG LAW

Molly M. Wood

1. The Act increases the Part B deductible for the first time since 1991. Currently $110, it increased beginning in 2005. Also it will increase the Part B premium ($78.20 for 2005) based on income—over $80,000 for singles—for the first time ever in 2007.

2. The prescription drug benefit is not included within the Medicare program itself. Instead, the Act requires people who choose the voluntary prescription drug benefit to select and enroll in a private plan to obtain prescription drug coverage.

3. The $3,600 out-of-pocket requirement includes the deductible and co-payments, but only when paid for drugs on the plan's formulary. The price of non-formulary prescriptions are not included when calculating the $3,600 out-of-pocket spending cap. Neither are co-payments, deductibles, and other costs paid for by a supplemental health plan. This means that most people will spend more than $3600 out-of-pocket before reaching catastrophic coverage.

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4. Under the standard benefit in 2006, beneficiaries will pay the first $250 in drug costs 25% of total drug costs between $250 and $2,250, 100% of drug costs between $2,250 and $5,100 (totaling $3,600 out-of-pocket), and 5% of drug costs after $5,100 (the catastrophic limit).

5. Just like with Medicare Part B, you must enroll in a new prescription drug plan or Medicare Advantage with prescription drug benefit plan during the first annual coordinated election period available to you or pay a penalty for late enrollment. The first one will begin November 15, 2005.

On December 8, 2003, President Bush signed the ***Medicare Prescription Drug Improvement and Modernization Act.*** *Although Medicare beneficiaries could enroll in a Medicare-approved Prescription Drug Discount Card—enrollment started in June 2003—this controversial bill's impact won't really be felt, until its main provisions go into effect as scheduled in January 2006.*

6. The new law allows each drug plan to change the drugs they cover during the year, but it requires participants to remain in the drug plan they choose for a year.

7. Plans may decide independently which drugs to cover under their formularies. However, they are required to provide *at least* two drugs in each therapeutic class, and the use of generic drugs is a goal of the program. Medicare beneficiaries should be prepared to consider their plan selection carefully.

8. From 2006 to 2013, average prescription drug premiums are projected to increase from $37/mo to $58/mo, the annual deductible from $250 to $445, and out-of-pocket costs from $3,600 to $5,511.

9. The law prohibits discrimination on the basis of health status—i.e., medical condition, claims experience, medical history, genetic information, and disability.

10. The law specifically prohibits the Department of Health and Human Services from negotiating lower prescription drug prices on behalf of the nearly 41 million Medicare beneficiaries.

Stevens & Brand, L.L.P. is a comprehensive service law firm serving Douglas county and northeast Kansas for over 85 years. Stevens & Brand assists clients with all aspects of estate planning and administration issues including: wills, trusts, powers of attorney, living wills, probate and trust administration, estate and gift taxation, guardianship and conservatorship, and long-term care/Medicaid planning issues.

In addition to estate and elder law matters, Stevens & Brand assists clients with such matters as: personal injury litigation; real estate; corporations; limited liability companies; divorce; child custody; adoption; banking; commercial litigation; construction; school and municipal representation; landlord/tenant; employment; and many other matters.

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