

Plan Now to Protect Your Property from Estate Tax

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Years ago in this column, I wrote about the importance of estate planning for Frank Lloyd Wright property owners. That message of the article bears repeating: if you have a property that you care about, you may have a serious estate tax problem. Despite recent changes in the federal estate tax, owners can't afford to be complacent. The beneficial effects of the modest reduction in the estate tax rate combined with the increase in the exclusion amount have been more than offset by increasing property values. Your Frank Lloyd Wright designed home may have become so valuable that it may have to be sold to pay the estate tax. The buyer may not be sensitive to the house or its site, and the legacy of your Frank Lloyd Wright home, consequently lost forever.

Let me give you an example of how devastating the estate tax can be, then turn to a couple of tools to address the problem.

Say that John and Mary own "Rolling Hills", a stunning Frank Lloyd Wright designed house on a beautiful property. There has been considerable development pressure in the area, and a major real estate developer has offered John and Mary \$3,500,000 for Rolling Hills, with the idea of turning the property into a subdivision. Of course, John and Mary turn the fellow down. Let's also say that John and Mary are fairly comfortable, with a portfolio and savings worth

be two irrevocable losses. First, the family will lose Rolling Hills. Second, as we've seen time and again, once Rolling Hills is sold, the Frank Lloyd Wright designed residence will almost certainly be razed, the dwelling "McMansionized", the grounds bulldozed, subdivided and re-landscaped, and all of the open space lost forever.

Are there other possibilities? Most certainly.

The principal tool in the private property owner's toolbox is the preservation easement. We've discussed the use of the easement several times in this newsletter. Not only will the easement protect the essential integrity of the Frank Lloyd Wright design and the dwelling's setting, the easement will also establish a lower property value and, if a number of conditions are met (as recently discussed in the BULLETIN), may provide an additional exclusion of up to \$500,000 from the taxable estate. The exclusion alone represents nearly \$250,000 in federal tax savings. The easement will therefore make it easier to pass the property to the next generation by reducing (if not eliminating) the estate tax.

There are a number of other tools. Succession planning for the property owner may also involve the use of a family limited partnership or limited liability company, possibly the use of a "generation-skipping trust", and possibly annual gifts to children and grandchildren. Often, too, more sophisticated planning involves the use of tax-advantaged charitable giving devices, such as charitable trusts and family private foundations.

So, you should be aware of two points:

First, the continued vitality, preservation and enjoyment of architecturally significant properties, such as those designed by Frank Lloyd Wright, are threatened because of an aging population and the continued impact of high federal and state estate taxes. The federal estate tax is not likely to go away, despite the proclivities of the current White House administration. State estate taxes, where in effect, are even less likely to be eliminated.

Second, this is a problem that needs the attention now of property owners, particularly those who own Frank Lloyd Wright buildings. It's not too late to become educated in the issues and the possible solutions. Awareness of the issues should inspire Frank Lloyd Wright property owners to act, to do the planning, and to protect and preserve the properties that are so important to all of us. ■

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about \$1,000,000. They haven't bothered to have their wills updated for some time. John and Mary have three children.

Mary dies first, leaving the cash, the portfolio and Rolling Hills to John. Because the estate in its entirety passes to Mary's spouse there is no estate tax due because of the unlimited spousal deduction. John and the children think (and hope) on John's death that Rolling Hills and the \$1,000,000 will be left to the children.

John dies. The children are in for a rude awakening, because this is what happens: In many states, the combined federal and state estate tax on John's \$4,500,000 estate (Rolling Hills plus the other assets) is about \$1,500,000 - \$2,000,000. Rolling Hills has to be sold to pay the estate tax. Once Rolling Hills is sold, there will