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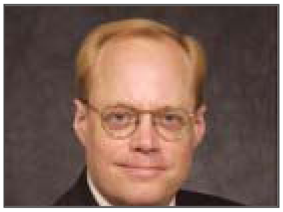

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Downton Abbey Breaks Rating Record, Now Let's Tax It

Downton Abbey is back and the Season 4 premiere drew a record audience. That is good for fans and good for PBS. But all the friction over how to pay duties on Mathew Crawley's death isn't good. Yanks call it estate tax but in any language, it hurts. In England, death duties date to 1894 and still figure in the U.K. budget.

"Downton Abbey" (Photo credit: See-ming Lee 李思明 SML)

Stateside, our IRS has collected tax on the transfer of property at death since 1916. Although the tax has been amended many times, one brief episode when it didn't apply at all was in 2010. But despite that one strange year, it's clear that the estate tax and the corollary gift tax imposed on transfers during life are not going away.

As the Season 4 opener portrays, with great estates like Downton in the U.K., it was not uncommon for property to be sold to pay the tax. Witness the friction between icy Mary Crawley and her father Lord Grantham over whether to sell off portions of Downton! And the discovery of Mathew Crawley's letter cum will thickens the plot.

In England or the U.S. today, planning can often avoid estate taxes, even where estates exceed the free allowances. On that point, Americans have it lucky. Under current U.K. rules, if the first spouse to die leaves everything to the survivor, the tax-free allowance is £650,000.

The value over and above £650,000 is taxed at 40%. For unmarried individuals, the tax-free allowance is only £325,000. Current U.S. tax law is considerably more generous. For 2014, you can transfer $5.34 million tax-free.

If you are married, your limit is double that. And if you are just giving assets to your spouse, the amount is unlimited, as long as the inheriting spouse is a U.S. citizen. In total, that means a married couple can transfer $10.68 million to anyone tax-free! Even if the estate is much larger than that, there should be no tax at all until the second to die.

U.S. estate tax law has been mercurial, and for years that made planning tough. Indeed, a change in 2001 steadily increased the tax-free amount until the end of 2009. Then, due to a squabbling Congress, there was no estate tax at all in 2010. That was a good year to die, as a few billionaires cleverly proved. Then in 2011, the tax came back but exemption amounts were scheduled to expire at the end of 2012.

Surprisingly, though, over New Year's 2013, Congress made the $5 million per person figure permanent, even indexing it for inflation and adding other favorable rules. Still, so many people rushed to make year-end gifts in 2012 that some people–particularly if they made large outright gifts to kids or grandkids–later tried to unwind gifts.

But suppose Downton were in the U.S. and worth much more, say $20 million or $50 million? U.S. farmers and small-business owners may worry that their loved ones may have to sell their family farm or business to pay taxes. However, there are several rules that can help.

First, in some cases special valuation rules can lower the value used. Moreover, once you settle on the estate tax figure, there are ways of stretching the payment of taxes out for 10 or even 15 years in some cases. There are various hurdles to be met to take advantage of such rules. However, if you play your cards right, it usually shouldn't be necessary to sell a family business or family farm to pay estate taxes.

Still, it would be nice not to have them at all, wouldn't it?

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.