

CASE 4 -- CHET AND BILLIE HOUSMAN -- "THE MODERATE ESTATE"

Chet and Billie, both retired after successful careers, have four children, all of whom are now adults, and one of whom has children of her own. Chet and Billie have planned with "sweetheart" wills, each leaving the entire estate to the other and then to the children in equal shares at the death of the survivor. Their wills provide for a "minor's trust" to care for the children, who were infants at the time the wills were drawn.

Chet and Billie's estate consists mostly of jointly held property, including a house in Howard County which is paid for, several moderate insurance policies, and retirement benefits vested in both of them, with survivorship benefits in the other spouse. Their estate is worth approximately three hundred thousand dollars.

Chet and Billie are considering rewriting their wills to reflect the majority age of their children, the birth of their first grandchild, and their desire to leave a bequest to their church. They are concerned, however, that they cannot afford a significant bequest, since it will "take money from their children." They attended a seminar like this one to be sure that their understanding of the law was up-to-date.

After the seminar, Chet and Billie consulted with an attorney about their planning. They found that, at the first death, their estate will pass entirely to the survivor with no shrinkage from either probate or taxes on the first death. There is no probate because the estate consists of jointly held property and survivor benefits of retirement plans, both outside the probate estate. There is no estate tax, since the estate is passing directly to the surviving spouse.

They learn that this happy state of affairs will not prevail on the second death, however. At that point, their estate will be subject to both probate and taxes. According to their attorney, while federal estate taxes will be avoided, the cost of probate will be approximately fifteen thousand dollars, according to a study done by the A.A.R.P. Their attorney informs them that some or all of this cost can be avoided by the use of a Revocable Living Trust, which avoids probate. While more expensive than a will, the trust will save much more than its cost.

They also learn that the use of a trust can eliminate the perception that their charitable bequest is reducing their children's inheritance. Their attorney shows them that the use of a "Wealth Preservation Trust," also called a "Capital Growth Trust," can actually double their effective estate distribution. This trust distributes income from the trust to Chet and Billie's children without distributing the principal, until the amount of income passed to the children equals the amount of principal. At this point, their attorney explains, their children will have received the entire amount of their inheritance.

Then, the trust distributes a percentage of the principal to the children and a percentage to the charity. Since the children have already received one hundred percent of their inheritance, this distribution will effectively double their inheritance. The gift to the charity is taken, not from the inheritance itself, but from the doubled portion. The Housmans feel that in this circumstance their charitable bequest can be more than the five percent they initially thought they could justify taking from their children, and decide to give a gift of twenty percent of their estate to the church.

This plan has the further advantage of protecting the children against themselves. Their attorney tells them that an I.R.S. study found that inheritances are spent within six months, on a national average. Under this plan, however, because the children do not receive their inheritance in a lump sum, they cannot "blow it" on frivolous purchases.

Chet and Billie agree to have the documents drawn up. They have increased their estate distributions, and have saved the entire probate costs. Their children are provided for, but protected from their own weaknesses. And Chet and Billie have benefited the church to a significant degree.