OCEPC

Group Discussion

You have been referred to Andrea by her brother Bob (a client of yours). You have just had your first meeting with Andrea and Charlie. Here is what you have learned:

* Andrea is 72, Charlie is 67, they are both US citizens, and they live in California:
  + Andrea
    - Owns a 42% interest in Plax industries (FMV believed to be 60mm).
      * This is Andrea’s sole/separate property,
      * The other 58% is owned by non-family members,
      * There is a buy/sell agreement in place (executed in 1999)
        + Andrea believes that is uses a book value buy out formula
      * Andrea is clearly worried about the business. “We grew way too fast for our own good” “We’ve outgrown everything; our accountant, our lawyer, our internal controls; it’s not good”
    - Owns the home that she and Charlie live in (Sole/Separate), and has a portfolio worth 2mm (she has had her advisor invest exclusively in large cap US; “I want to play it safe”)
    - Has a 900k universal life policy that was issued in 2002; “The premium started out at 14k, it’s now 23k, and the agent tells me that I need to put in more; my inclination is to just dump it”
    - Gives 25k/year to her church. She is not making any charitable bequests; “I didn’t know that you can do that”
    - Has 2 children by a prior marriage
      * “One of my kids just won’t settle down, and the other is an honest to God rocket scientist, with less common sense than your average house fly”
    - Does not appear to be in good health. She mentioned “that heart thing” and as she did so Charlie looked down, and slowly shook his head from side to side
    - Is the beneficiary of three trusts that were established for her by her father at his demise in 2001.
      * The trustee is a family friend,
      * Andrea has never seen a trust accounting,
      * When her father died the aggregate value of the trusts was 10mm,
      * Has never gotten a distribution from the trust. Even through the trust provides for distributions to Andrea (H/E/S/M) the trustee hasn’t made any; “You don’t need the money +Your Dad told me that these trusts are for his grandchildren”
      * The trust has a testamentary LPA which Andrea has not exercised
  + Charlie
    - In excellent health (just ran in the LA Marathon)
    - Is a history teacher, and has zero interest in business (“I leave that stuff to Andrea”)
    - Has a 700k 403(b) account
    - Has 1 child
  + Andrea and Charlie
    - Were married in 2003,
    - They have a pre-nuptial agreement (California law restated with earnings community going forward after marriage, with provisions for spousal support in the event of dissolution),
    - They each have an RLT. Andrea’s property passes into exemption and QTIP trusts FBO Charlie, and then at his demise, to her children outright (if Andrea predeceases Charlie, Charlie is the successor trustee).
  + Concerns:
    - Plax Industries,
      * The buy/sell agreement, the lack of internal control etc.
    - Andrea’s investment accounts,
    - The three testamentary trusts that benefit Andrea,
    - What happens if Andrea predeceases Charlie,
    - What happens to the wealth when it gets to the children,
    - Charitable bequests
    - The Federal Estate Tax
  + You table’s job
    - Come up with an action plan for Andrea and Charlie