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ADMINISTRATOR FOR ESTATE HELD LIABLE FOR DECEDENT'S UNPAID INCOME TAXES

In a recent United States District Court Opinion from Maryland, US v. Shriner, the Court held that the Administrator of an Estate was personally liable for the unpaid income taxes of the decedent. Although the Administrator claimed that he did not have actual knowledge of the liability for unpaid taxes, it was undisputed that the Administrator's law firm had this knowledge based on a Power of Attorney that authorized the law firm to represent the estate and to receive IRS notices.

By way of background, personal liability may be imposed upon a fiduciary of an estate in accordance with the federal priority statute. Under this priority statute, a fiduciary paying a debt of the estate before paying a claim of the government is liable to the government to the extent of the payment for the government's unpaid claim. There are three tests that must exist before the fiduciary has liability. Those three tests are: (1) the fiduciary has distributed assets of the estate; and (2) the distribution rendered the estate insolvent; and (3) the fiduciary had actual or constructive knowledge of the liability for unpaid taxes when the distribution was made.

In the Shriner case, elements (1) and (2) were undisputed. For the third element, the Administrator claimed not to have knowledge. However, the Court found that the law firm representing the Administrator had actual knowledge. Therefore, the Administrator had constructive knowledge and was held to be liable for the unpaid taxes.

OUR RECOMMENDATION: Fiduciaries need to be cautious in making any distributions to beneficiaries or paying debts of the decedent. Under Tennessee law, fiduciaries should wait at least four months to see if claims of creditors are filed, and to be sure of all of the claims. Additionally, the fiduciaries need to make sure that the decedent's final Income Tax Return is filed and that the taxes are paid, and that a Federal Estate Tax Return and a Tennessee Inheritance Tax Return are filed and the taxes are paid. Additionally, if the estate is a taxpayer, an Income Tax Return for the estate should be filed.

Yours very truly,

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