Estate Planning

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THE SHINY SHEET®

Contents contributed by members of the Palm Beach County Estate Planning Council, Inc.

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A Message from the President

Your estate plan: A path for your financial future

"Planning is a process of choosing among many options. If we do not choose to plan, then we choose to have others choose for us." — *Richard I. Winwood*

Michael Becker

Estate planning is the organizing of your assets, including proper documents likes trusts and wills, to ensure that your financial future, whether retirement, incapacity or at death, reflects your goals and values. The key to creating a well thought out, comprehensive approach to what can be a daunting task, is to aggregate a group of professionals — experts in their disciplines — to help guide you through the process.

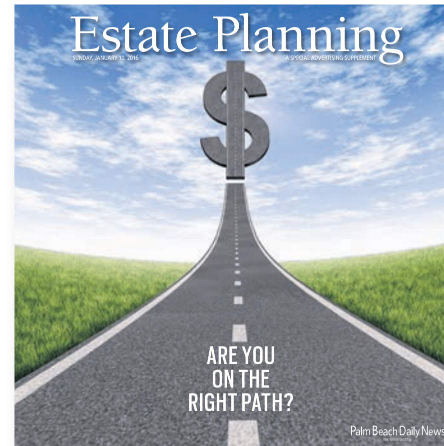
The Palm Beach Estate Planning Council is a nonprofit organization of more than 150 members. Our members are well trained, extremely knowledgeable estate planning professionals who provide the services you need to craft a customized plan to fit your very specific needs. Our members are here to help you navigate this complex landscape and offer their expertise in asset management, tax minimization, gifting, and preparing beneficiaries for life's various transitions.

As you page through this 17th edition of our annual supplement, you will read insightful articles from attorneys, wealth advisors, charitable giving experts, accountants, trust officers, insurance professionals, and care providers. Your planning may engage some or all of these professionals who work together as required to form the team you need to achieve your individual objectives.

I am confident that you will find the articles in this supplement interesting and informative. Please feel free to contact any council member listed in this publication to learn more about ways you can optimize your personal estate plan. I also urge you to visit our website at www.pbcepc.org for additional information.

On behalf of the members of the Palm Beach Estate Planning Council, I sincerely hope that you will put our collective knowledge and experience to work to help you plan for the future you envision.

Best Regards.
Michael G. Becker
President



The Palm Beach County Estate Planning Council, Inc. is the resource for estate planning professionals in Palm Beach County. The two key purposes of the Council are to increase the overall knowledge of its membership and to enhance the professionalism and interaction of the members for the benefit of their clients and the public via academic exploration of specific topics of common interest.

Professionals seeking membership information should contact Administrative Director Wanda H. Doumar at (561) 310-5442.

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The importance of creating documents needed for medical preparedness

Recent law changes you should know.

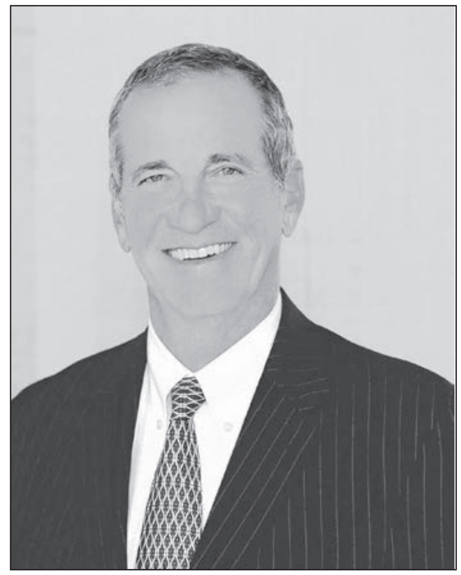
By Garrison duP. Lickle and Eriko Hashimoto
Chilton Trust Company

When considering estate planning documents, it is important to include advance health care directives so your family and loved ones have the appropriate guidance to make the desired and responsible health care decisions should you no longer be able to yourself. Having the right documentation to define and address your health care needs and desires is imperative to ensure your caretakers have clear guidelines. State laws vary concerning the legality and enforceability of these documents, so it is best to consult your attorney to determine the appropriate documents to prepare. If you spend significant time in multiple states, you may want to prepare separate documents appropriate for each state so that the documents will be familiar to your state-specific providers. Hospitals often have their own forms so we recommend inquiring with your local hospital as well so you can maintain your directive in their files.

Health Care Surrogate

A Durable Health Care Surrogate document authorizes another person, a representative you appoint, to make medical decisions on your behalf in the event you are unable to express them yourself. By executing this document, you still maintain the power to make your own medical decisions, but it allows your surrogate to step in if you become incapacitated. A recent update to the Florida Health Care Surrogate Act, effective October 1, 2015, allows you to designate a surrogate to make health care decisions even if you are not incapacitated, if you wish. With this Durable Health Care Surrogate, the statute indicates that if you have capacity, your decisions override those of the surrogate should there be a conflict. It is best to appoint one person to serve as a surrogate at a time and to name an alternate should your primary surrogate be unable to act on your behalf. Prior to appointing a surrogate, you should confirm his or her agreement and ability to carry out your wishes. Your surrogate will have the power to consent or decline medical treatments on your behalf. As such, you can outline how much authority your surrogate will have on this document. The Florida Bar website provides a "Designation of Health Care Surrogate" form for those who wish to fill out a form rather than draft a bespoke document.

Eriko Hashimoto



Garrison duP. Lickle

HIPAA Waiver of Authorization

Patient-privacy regulations under the Health Insurance Portability and Accountability Act (HIPAA) of 1996 make it difficult for your appointed representative(s) to obtain your protected health information. The HIPPA Waiver of Authorization allows doctors to provide information on your health to third parties such as family members, other doctors, or attorneys. This document should accompany your Health Care Surrogate to ensure your representative will have access to your health information in order to make decisions on your behalf.

Living Will

A Living Will provides specific directives about the course of treatment to be followed by health care providers. In most states, including Florida, this directive applies when you have no hope of survival, such as terminal injury or illness, therefore addresses decisions regarding life-sustaining treatments. Having a clear understanding of the implications of your directives is important. We recommend providing a copy of your Living Will to your doctor and local hospital to maintain with your medical records so it is readily available when needed.

Durable or Springing Power of Attorney

While the other three documents are specific to medical care, a Durable or Springing Power of Attorney enables the appointed representative to make financial decisions on your behalf in the event of an incapacitating illness or injury. This is an important aspect of medical preparedness as you will need someone to look after your financial affairs in the event of incapacity. A standard Power of Attorney becomes ineffective when its grantor becomes incapacitated. As such, it is important to have a Durable Power of Attorney, which is in effect when you are both cognizant and incapacitated or a Springing Power of Attorney, which only goes into effect once you become incapacitated. Determination of incapacity varies state to state, but generally, there is some sort of formal procedure. If you elect to use a Springing Power of Attorney, it is helpful to note in your document exactly what you consider "incapacitated." Often times, language is included that requires a doctor's certification of incapacitation.

It is never too early to get these documents in order as it is best to execute them well before any medical needs arise. In addition to preparing these documents, communicating your thoughts on different medical treatments, quality of life and end-of-life care with your family and doctor is critical. The more they know, the easier it will be for them to fulfill your wishes.

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Chilton Trust Company, a private, independent Trust Company, advises and provides wealth management services including fiduciary service and investment solutions to high net worth individuals, families and foundations.

A woman's guide to financial readiness

Preparing for the unexpected

By Eileen Minnick and Marti Latour
BMO Private Bank

There's no question that times of change, particularly unexpected and unplanned change, can be highly stressful. Yet despite its unsettling nature, change is a necessary and unavoidable fact of life. There are many transitional events that will likely warrant a careful review of financial plans, but two life changes in particular — divorce or the death of a spouse — often prove especially challenging for women. An already difficult situation is often exacerbated by the stress of having to deal with a wide array of financial considerations that may never before have been a concern.

While most people need to step up their savings to help ensure a successful retirement outcome, the financial burden on women is often greater than that of men. This is a direct result of the need to fund a longer life expectancy with fewer resources.

Past generations of women often turned the financial reins over to a husband or trusted advisor, but doing so inevitably left them financially in the dark. When the time came to assume control of their finances, they were often ill-prepared, having little knowledge of how much was saved and where to find important papers, such as wills.

Today, however, the tides have dramatically turned; many women are taking an increasingly active role in planning for their financial futures. Nearly half (44 percent) of all women are the primary breadwinners in their households.

A striking 90 percent of women will be on their own at some point during retirement. While some are choosing to remain single, many are thrust into this

Marti Latour

Eileen Minnick

role as a result of divorce or widowhood. In these situations, dozens of critical financial decisions need to be made, often at a time of high emotional upheaval and stress. This is why advance planning, even if these plans never come into play, is so critical. Advance planning helps individuals understand the basics of wealth management while getting all financials organized. And the first step is to sit down with one's team of advisors to ask them for help in bringing one's overall financial picture into focus.

Initial preparations

Both spouses should be familiar with all the family assets and liabilities including:

- Bank accounts
- Investments
- Insurance
- Real estate
- Mortgages
- Equity loans

All important documents, account numbers, IDs and passwords should be kept well-organized, updated and accessible. Additionally, women should learn about available life and disability insurance options. If the family has any trusts in place, women need to understand not only the current trust structures but also what happens if a spouse passes away. Similarly, beneficiary designations should be reviewed on all life insurance policies and IRA accounts.

Additionally, it's imperative for women to obtain a clear picture of their family's debt situation, including all mortgages, equity loans and lines of credit.

Financial planning for the suddenly single

Finding the path to a sense of security can be a long road, but made easier with a solid understanding of one's full financial picture. Understanding one's assets and income and how they correspond to specific lifestyle needs and expenses is essential. A financial advisor can conduct a cash flow analysis and review current banking services to ensure ongoing needs will be met.

In light of any sudden change in circumstances, investment portfolios should be reviewed to ensure that the objectives and mix of assets still make sense.

Often, the death of a spouse or divorce will leave the newly single either over insured or underinsured. A review should be conducted not only of life insurance coverage but also other policies — auto, home, property, disability and long-term care insurance — to ensure they adequately reflect current needs.

And lastly, don't forget that wills and trusts should be reviewed and potentially amended to reflect changes to the executor, beneficiaries and/or successor trustee.

The significance of securing the advice and trusted counsel of experienced professionals simply can't be overstated. And the time to do that is now — before the possibility of an unexpected event occurs. The specter of finding oneself suddenly single can be daunting, but with a thoughtful and comprehensive plan in place, even the unexpected can be navigated should it come to pass.

Eileen Minnick — Vice President, Director of Trust and Estate Services, BMO Private Bank

Marti Latour — Vice President, Wealth Advisor, BMO Private Bank


Enjoy the life
you’ve built.
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How multiple residences can affect your living will

Despite your well-thought-out plans, these advance medical directives may not always be valid.

Michele Vogel

By Michele Vogel
Wilmington Trust, N.A.

Perhaps one of the most important decisions you can make regarding your future is whether you wish to have certain medical treatments administered in the event of your physical or mental incapacity. You may already understand the importance of documenting these wishes and naming the individual you would want to make your medical and financial decisions in the event that you could not. However, despite your well-thought-out plans, these advance medical directives may not always be valid. And the result could be an emotional and financial disaster for your surviving family.

Consider the hypothetical story of Laura, an ICU nurse who had seen more than her share of patients kept alive by artificial means, and who did not want to end up in a similar situation. Therefore, she made sure that she and her husband, Jim, had living wills included in their estate plans. Laura was firm with her decision and shared it with her family members.

Eight years after the documents were signed in their home state, Laura and Jim were vacationing at their out-of-state cabin. While hiking in the mountains, Laura slipped and tumbled into a ravine. She suffered a back injury and was unconscious when airlifted to the hospital. Laura was paralyzed from the neck down, never woke up, and was kept on a ventilator. Jim and

Please see **LIVING WILL,** Page 16

Michele Vogel, J.D., LL.M. Vice President and Senior Private Client Advisor Wilmington Trust, N.A. Michele provides comprehensive wealth management advice to high-net-worth individuals, families, business owners, and entrepreneurs throughout the state of Florida. She works closely with clients and their advisors to develop financial strategies that help clients meet their current needs and plan for their long-term objectives.

You can have your cake and eat it too

Using Section 2519 to make gifts from marital trusts.

Lisa A. Schneider
and Alyse Reiser Comiter
Gunster

Alyse Reiser Comiter

Lisa A. Schneider

Perhaps your first husband passed away and a marital (QTIP) trust was created for your benefit. That marital (QTIP) trust will be included in your taxable estate at your death at its then-current fair market value. However, you now believe that one of the assets of such trust is about to appreciate substantially and would like to be able to capitalize on such appreciation for the benefit of your children, the remainder beneficiaries of the marital trust. What can you do?

If you have sufficient gift tax exemption remaining (currently $5,430,000, less exemption you used on other lifetime transfers) to cover the current value of the asset you would like to gift, it may be possible to trigger a provision of the Internal Revenue Code (the "Code") such that you will be deemed to have made the gift of the interest during your lifetime. This will result in the assets being treated as if they were gifted to your children currently using some of your remaining gift tax exemption rather than the asset being taxed at your death at the substantially increased value. The appreciation on the property will pass to your descendants free from additional transfer tax. Although this is an effective technique for transferring the appreciating asset to the next generation, you may be concerned about making a present gift because your standard of living requires you to maintain the income flow from the remaining marital trust assets.

In order to obtain the benefits of making the gift while maintaining access to the income generated by the assets, you need to first isolate the appreciated property to be gifted from the other marital trust assets. The marital trust will need to be severed into two separate trusts — one with the target property ("Trust A") and one which will hold the balance of the marital trust assets ("Trust B"). If the marital trust also contained a spendthrift provision preventing any transfer of your interest in the trust, Trust A can be modified by court action such that the spendthrift provision is inapplicable to such trust.

Once the marital trust has been severed, you will then make a gift of your income interest in Trust A only which, under section 2519 of the Code, is a deemed gift of all of the property owned by Trust A, other than your income interest. Depending upon your current financial position and the provisions of the marital trust, there are a number of ways in which this transaction can be structured, and it is quite possible that you will be able to maintain an interest in the "gifted" property such that you are not giving up assets with which you need to live. If the terms of the marital trust upon your death provide for lifetime trusts for your children, your remaining generation-skipping transfer tax ("GST") exemption (also $5,430,000 less GST exemption used on other lifetime transfers) can also be allocated to Trust A at this time to protect the gifted property from future generation-skipping transfer taxes. The result is a win-win for your family.

Lisa A. Schneider is a Co-Chair and Alyse Reiser Comiter is an attorney in Gunster's Private Wealth Services Group and each concentrates her practice in estate and trust planning for high-net worth individuals. Ms. Schneider and Ms. Comiter advise Firm clients on their personal and business needs, including business succession planning, charitable planning, the management of wealth that passes from one generation to another, and tax reduction strategies, among others.

Recent developments for Florida family trust companies

Stephen G. Vogelsang
Gunster

On June 13, 2014, Governor Rick Scott signed into law the Florida Family Trust Company Act (the "Act") establishing a statutory framework authorizing the organization, operation, and regulation of family trust companies ("FTCs") in Florida. An FTC is an entity which provides trust services similar to those that can be provided by an individual or public financial institution, such as serving as a trustee of trusts held for the benefit of family members, while at the same time providing services typically provided by a family office including investment advisory services, wealth management, and general administrative services. Several family offices have identified shortcomings in the Act which will be remedied in a so-called Glitch Bill which has been introduced for consideration in Florida's next legislative session.

Families form FTCs for myriad reasons including, for example, (i) managing assets which public trust companies aren't interested in managing like closely held businesses or real estate; (ii) providing a corporate liability shield for individual fiduciaries who may be reluctant to serve for liability reasons; and (iii) creating a platform for engaging and educating younger generations in the management of family wealth. The Act allows for the formation of "Licensed" FTCs and "Unlicensed" FTCs. Many families considering forming an FTC have expressed some reluctance to organize in Florida because they believe that the Act provides for too much regulation of Unlicensed FTCs and not enough regulation for Licensed FTCs. The Glitch Bill will remedy both of these perceived shortcomings.

Florida's Office of Financial Responsibility ("OFR") is charged with supervising banks and trust companies in Florida. The Act requires OFR to conduct mandatory examinations of every Unlicensed FTC once every 18 months. In addition, OFR may examine an Unlicensed FTC at any time it suspects the FTC to be operating in violation of the Act. OFR has not indicated how it intends to conduct examinations of Unlicensed FTCs but at a minimum an examination would necessarily require a review of private family trust instruments, financial arrangements between the FTC, and the trusts for which it serves as a fiduciary and perhaps the propriety of the investments an FTC implements on behalf of its family trust clients. An overwhelming majority of family offices considering forming an FTC will organize as Unlicensed FTCs specifically because they do not want their private family matters subject to intrusive examinations. Other jurisdictions which offer an unlicensed or unregulated FTC option, most notably Nevada and Wyoming, do not subject unlicensed FTCs to examinations and will likely remain the jurisdiction of choice for unlicensed FTCs if the Glitch Bill is not ultimately enacted. The Glitch Bill will eliminate mandatory OFR examinations of Unlicensed FTCs.

A small number of FTCs may choose to become Licensed FTCs because they desire OFR supervision for any of a number of reasons, including family governance issues and federal estate and gift tax considerations. The majority of FTCs which choose to become Licensed FTCs, however, are likely to do so in order to secure exemption from SEC regulation as an "in-

Please see FAMILY TRUST ACT, Page 16

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Stephen G. Vogelsang

Simplified and flexible planning for couples with the single QTIP trust

By Jane Brown
Gunster

The single QTIP trust has the following advantages:

I. Reducing Capital Gains Taxes

Portability has significantly simplified estate planning for married couples allowing for outright distributions and the transfer of unused estate tax exemptions for use by the survivor.

The tax basis of assets is stepped up to date of death values at the first death and again at the second death, avoiding a capital gains tax. For those who want to achieve this income tax advantage, take advantage of both GST exemptions, preserve the option of sheltering assets from taxation in the survivor's estate, while also preventing the diversion of assets from intended beneficiaries, creating a QTIP trust for the survivor is the solution. In some cases the single QTIP trust will achieve a better overall tax result than requiring the creation of a Credit Shelter trust and should be considered if the primary objective is to provide for the surviving spouse.

With a Credit Shelter trust, the ultimate beneficiaries will inherit property with built in capital gains that will be subject to a tax upon sale of the assets. If the survivor's estate is less than their remaining estate tax exemption, the single QTIP trust which will utilize their excess exemption will be a better option in reducing overall taxes.

II. Planning Flexibility

The QTIP trust will be subject to an estate tax at the second death where a Credit Shelter trust will not. An estate plan that utilizes only a QTIP trust, but

Jane Brown

also provides the trustee with powers to make elections, enables the trustee to consider whether sheltering some of the assets from an estate tax at the second death is advisable. Making this determination can be postponed until the first death rather than at the time the documents are executed. The trustee will consider how much exemption is available to the survivor and the likely size of both the QTIP trust and the survivor's assets at the survivor's death.

Because the QTIP trust qualifies for the Marital Deduction, the first spouse's entire remaining estate tax exemption can be ported to the survivor. That amount will be fixed and not increase. The survivor's exemption is adjusted for inflation and will increase over time. In determining the potential amount that ultimately will be subject to estate tax, the trustee will consider the survivor's consumption of assets over their life expectancy and the likelihood of any appreciation. If it is highly likely that there will be assets subject to an estate tax, the trustee may choose to shelter some of them from tax.

This can be accomplished by electing to qualify only a portion of the QTIP Trust for the Marital Deduction and utilizing some or all of the first to die's exemption. The portion that is not "QTIPed" will function like a Credit Shelter trust, and all of the appreciation on the assets held in that trust will be sheltered from estate tax.

III. Utilizing Both GST Exemptions

For couples wishing to provide ultimately for grandchildren, both of their GST exemptions can be utilized with a single QTIP Trust. At the first death, the trustee can divide the trust and make a reverse QTIP election, creating a GST exempt QTIP trust and a Nonexempt QTIP trust. At the second death, the survivor's trustee can allocate their remaining GST exemption to the Nonexempt QTIP trust making it (or a portion of it) GST exempt.

IV. Minimizing Nonresident Death Taxes

If the assets consist of real property in a state other than Florida, the estate may be subject to a nonresident estate tax. If the nonresident state has a state death tax credit, but does not have a portability provision, but has a state QTIP marital deduction, planning with the single QTIP trust is a good option. This is especially

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Jane W. Brown is a shareholder at Gunster. She has 20 years of experience drafting wills and trusts that preserve clients' personal objectives, aim to promote family harmony and avoid potential disputes. She utilizes estate and income tax planning techniques. She represents personal representatives and trustees in estate administrations.

The ABLE Act – IRC Section 529A

Using ABLE accounts for individuals with disabilities

By Patricia A. Giarratano
Caler, Donten, Levine, Cohen, Porter & Veil, P.A.

President Barack Obama signed the Achieving a Better Life Experience Act of 2014 (ABLE Act) on Dec. 19, 2014. The ABLE Act established a way for individuals with disabilities to save money without the risk of losing their government benefits. This new legislation creates a new form of tax-free savings similar to college savings accounts. The purpose of the legislation is to ease financial strains faced by individuals with disabilities by providing tax advantaged savings accounts to cover qualified expenses such as education, housing and transportation. Income earned by the accounts will not be taxed and contributions made to an account may be made by any person, such as the account beneficiary, family and friends.

Eligibility for an ABLE account states that an individual must have a significant disability with an age of onset of disability before turning 26 years of age. If you meet these criteria and are also receiving government benefits under SSI or SSDI you are automatically eligible to establish an ABLE account. If you are not a recipient of SSI and/or SSDI, but still meet the age of onset disability requirement, you would still be eligible to open an ABLE account provided you meet certain SSI criteria regarding significant functional limitations.

Each state is responsible for establishing and operating an ABLE program, similar to the college savings accounts. The ABLE Act stipulates that an account may only be opened in the state in which the account beneficiary resides, which means those states that do not currently have ABLE programs will need to implement them. However, a state can choose to contract with another state and those state residents would be covered under the contracting state's plan.

Patricia A. Giarratano

The total annual contribution by all participating individuals, including family and friends, is $14,000 and the contributions must be made in cash. This amount will be adjusted annually for inflation. The total limit over time that could be made to an ABLE account will be subject to the individual state and their limit for education-related savings accounts. Many states have set this limit at more than $300,000 per plan. However, for individuals with disabilities who are recipients of SSI and Medicaid, the ABLE Act sets further limitations. The first $100,000 in ABLE accounts will be exempted from the SSI $2,000 individual resource limit. If and when the ABLE account exceeds $100,000, the beneficiary will be suspended from eligibility for SSI benefits and no longer receive monthly SSI income. However, the beneficiary will continue to be eligible for Medicaid.

A "qualified disability expense" means any expense related to the designated beneficiary as a result of living a life with a disability. These expenses include education, housing, transportation, employment training and support, personal support services, health care expenses, financial management and administrative services as well as other expenses described in the federal ABLE regulations. The regulations state that the definition of a "qualified disability expense" should be broadly construed to include basic living expenses and not be limited to medically necessary expenses.

Finally, you may wonder what the differences are between an ABLE account and a supplemental special needs trust. An ABLE account will provide more choice and control for the beneficiary and family. The cost of establishing an ABLE account will be considerably less than a special needs trust. The ABLE accounts allow families to accumulate funds for disabled beneficiaries while enjoying tax-free growth and minimal cost to establish the accounts. Special needs trusts are subject to income taxation and at compressed trust tax rates with a top 39.6 percent rate beginning at $12,300 of income in 2015. The greatest disadvantage to establishing an ABLE account as opposed to a special needs trust is a requirement to repay the state for any aid provided upon the death of the disabled beneficiary. In addition, for families who wish to fund larger dollar amounts in excess of $100,000 on behalf of a disabled beneficiary, ABLE accounts may simply not be practical. For many families, the ABLE account will be significant option to consider funding basic needs up to $100,000 in addition to, or instead of, utilizing a special needs trust.

Patricia A Giarratano, CPA, MST, is a tax director at Caler, Donten, Levine, Cohen, Porter & Veil, P.A. in West Palm Beach.

The challenges of managing collections of treasure assets

Without full documentation of the asset's purchase price, provenance, condition, appraised value, and market demand, it can be very difficult to determine the current value.

By Andrew Kravit
Kravit Estate Appraisals LLC

One of the challenges facing high-net worth (HNW) individuals and their families is managing their valued collections of fine art, jewelry, antiques, wine, coins, and other treasure assets. Unlike stocks, bonds, and other liquid securities with easily determined market values, each treasure asset is unique, with its own special appeal to a collector.

Without full documentation of the asset's purchase price, provenance, condition, appraised value, and market demand, it can be very difficult to determine the current value for insurance, tax, or estate-planning purposes. In addition, heirs or trustees may not recognize the significance of an asset or maximize its sales value if an appraisal is outdated or poorly done or the provenance is missing. That documentation problem, of course, is multiplied with large collections that may include hundreds of unique pieces.

That's an important consideration for attorneys, accountants, and other professional advisors, since fine art, jewelry, and antiques can account for a significant component of an individual's total wealth. A recent Barclays wealth-management report found that treasure assets comprise 9.6 percent, on average, of individuals' total net worth.

HNW individuals also like the potential investment returns from their treasure assets. According to Knight Frank's Wealth Report, the nine main collectibles markets grew by 175 percent over the past 10 years — a far better record than U.S. stocks. Last year, all nine categories

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Andrew Kravit

Ten for ten: 10 lessons learned from Indexed Universal Life's first 10 years

By R. Marshall Jones and Adam D. Sendzischew
Jones Lowry

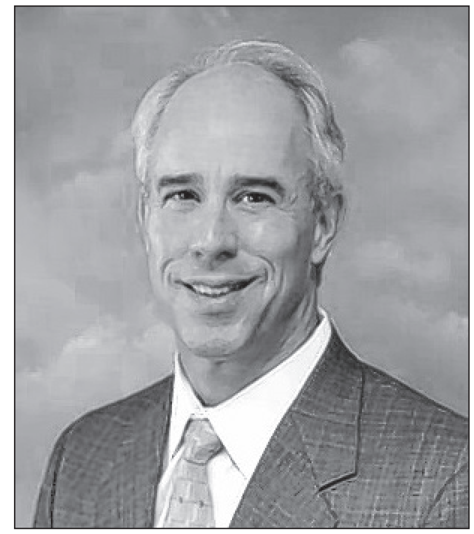
1. Alert: Indexed Universal Life (IUL) Insurance can boost bond returns safely. Ten years of experience with IUL has confirmed that good IUL policies are an excellent addition to a life insurance portfolio. They are more flexible than fixed premium whole life, can provide higher returns than Universal Life and be less risky than Variable Life stock market investments.

IUL combines a guaranteed "no loss" investment floor with the ability to purchase options on stock market indexes. The most popular uses the 1-Year S&P 500 Index without dividends. You choose the allocations.

With the 1-Year S&P 500 Indexed Option, you receive 100 percent of the market upside (with a cap based on the cost of the options). If the Index is negative, the options simply expire. Meanwhile, you have a Guaranteed "no-loss" Floor provided by the cash values that remain invested in the insurance company's General Account.

2. Be wary of overly optimistic investment assumptions. "The illustration is NOT the contract!" Illustrations that over-promise may under-perform. Stress test your design; use conservative assumptions. Actual results are NEVER linear. An illustrated rate of 7 percent every year is the equivalent of assuming the stock market


Adam D. Sendzischew


R. Marshall Jones

with dividends will earn 10 percent every year.

3. Watch for gimmick Indexed Options. It's hard to beat the S&P. When in doubt, keep it simple. Recent regulations, intended to reduce the use of unrealistic assumptions, require sales illustrations to use a rate that is no higher than a Benchmark rate based on the 1-Year S&P 500 Index without dividends.

4. The Best Carriers Treat In-Force Policyholders like they own the company. Be on the lookout for "bait and switch" possibilities. How will you be treated after you become a client? Look for carriers who fully hedge your option risk, pass through 100 percent of your option gains, maintain the highest cap rates that can be supported, and don't change the deal after you become a client.

5. Look for Carriers that don't charge more for IUL than for Universal Life. Basis points matter, especially when they compound in a tax-deferred cash value account. Some carriers use the allure of IUL to build in extra charges that reduce overall policy performance. With the best carriers, your indexing costs are funded solely with your policy's options budget.

6. For Best Performance, Think Very Long Term. This is a lifetime investment. Plan as if the insured will live well beyond age 100. Use a policy design that will last more than 20 years regardless of investment results. Allocate your Indexed Accounts so that 1/12th of your cash value segments mature each month. Good design allows you to select a planning rate that will equal or exceed your target cash values as you approach life expectancy.

7. Have Overloan Protection if you

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R. Marshall Jones is a Principal of Jones Lowry and a non-practicing member for the Florida Bar, an Accredited Estate Planner, Chartered Advisor in Philanthropy, Chartered Financial Consultant and Chartered Life Underwriter. Adam Sendzischew is a Vice President of Jones Lowry, a Certified Financial Planner™, and a graduate of the University of Miami with a B.S. in Finance & Law, an MBA in Finance and an MBA in Operations Management. Jones Lowry is an independent life insurance planning firm specializing in the analysis, design, implementation, funding and administration of life insurance portfolios for ultra-affluent families.

Impacting our community through next gen philanthropy

Megan Kohner

Laura Kohner

By Laura Kohner and Megan Kohner
Current Students at Southern Methodist University

"Bike Twins! Bike Twins!" greeted us as we exited the library. We turned to see Oscar, one of the first "kidz" to participate in our mentoring program, Buddies and Bikes For Kidz, Inc. He ran toward us with a huge stack of books and a gigantic smile. Matching his grin with our own, we knelt to read his titles as he excitedly chattered about them. This was a complete contrast to a student who when we first met thought the Nintendo Wii was the greatest invention imaginable.

In 2007, we founded Bikes For Kidz, Inc., a 501(c)(3) nonprofit organization in Palm Beach County. Our goal was to promote literacy and a love of learning through mentoring Title I elementary students.

We worked with students to set targets and work to master the targeted skills. When the students attained their ultimate goals we rewarded their achievements with a new bike and helmet.

When we started Bikes For Kidz, we never thought we would be able to distribute 1,000 bikes to students at 23 Title I elementary schools.

One of the most surprising things we learned was how receptive the students are to our efforts, just because they are being taught by a student. This alone gave many of our "kidz" motivation to work on goals; the realization that students can be in charge and effect change empowered our "kidz." Some important lessons are best taught student-to-student.

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LIVING WILL

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her parents stayed by her side. After six weeks, Jim presented Laura's living will with instructions to let her die. Her parents objected for religious reasons and took the case to court. The judge ruled in their favor.

The court held that if Laura had wanted a binding document, she would have drafted one in the state where she owned a second home. Additionally, the judge pointed out that since the living will from Laura's home state had not been updated for several years, it might not express her current wishes.

Advance directives are used throughout the country, but there are no universal forms, and individual state law governs these documents. While some states will recognize the laws of the state where the directive was issued, others may not since the rules may vary from state to state. And the titles of the documents may differ as well. Complications can also result when states:

- Require that you use their statutory forms
- Are very specific about which types of advance directives their laws will recognize
- Require that certain conditions be met before your instructions are honored
- Will not recognize documents that do not include the signature of the person who is to make decisions for you

Furthermore, there are some states that take the position that once certain treatments have begun, they cannot be stopped by an advance directive. And a number of states' laws make it better to combine a power of attorney with a living will into one document, while several do not.

There are a few steps you can take to assure that your wishes are followed from state to state.

- Review your current documents with your attorney
- Execute separate documents for each state where you frequently spend time
- Name the same person as your representative in every state's documents.

You may also want to schedule an annual review with your attorney because states' laws occasionally change. In addition, new case law provides new precedents, thus possibly making forms you have used obsolete.

Although no one can predict what their future may hold, proper planning can provide protection from emotional and financial disaster for you and your loved ones.

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QTIP TRUST

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true where it is uncertain if the assets will consist of those subjecting the estate to the nonresident tax. The state death tax credit available at the first to die's death can be preserved by making the state QTIP election over the portion of the trust in excess of the state exemption amount, postponing the state death taxes due until the death of the survivor.

V. Satisfying Florida's Elective Share

Unless waived, a surviving spouse of a Florida domiciliary is entitled to 30 percent of the deceased spouse's elective estate. This elective share can be satisfied by providing the spouse with a QTIP trust. This is beneficial for those who wish to satisfy the elective share while meeting the other planning objectives the QTIP trust provides. The value of the QTIP trust for purposes of satisfying the elective share depends upon the terms contained in the trust providing the spouse with trust principal.

FAMILY TRUST ACT

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vestment adviser" under the Investment Advisers Act of 1940 (the "1940 Act"). A family office which falls outside the SEC definition of "family office" would be required to register under the 1940 Act subjecting it to burdensome filing requirements, SEC inspections and surprise examinations. Families that aren't able to structure their family offices within the SEC family office exemption will seek alternative exemptions from SEC regulation. One such alternative is the so-called "bank exemption." Banks are specifically excluded from the definition of "investment advisers" which are required to register under the 1940 Act. Although the Act was intended to permit Licensed FTCs to qualify for the "bank exemption" from SEC regulation under the 1940 Act, many prominent securities lawyers now believe the examination framework for Licensed FTCs isn't sufficiently burdensome to qualify for exemption. The Glitch Bill will substantially expand the scope of OFR examinations of Licensed FTCs so that Licensed FTCs will almost certainly qualify for the "bank exemption" from regulation under the 1940 Act. Although examinations of Licensed FTCs would be more rigorous, the Glitch Bill provides that the examinations would occur only once every 36 months rather than once every 18 months, making the prospect of intrusive examinations somewhat more palatable.

CONCLUSION

Florida will become a preferred destination for FTCs because of its favorable tax and trust laws and geographic desirability. Existing FTCs and families considering forming a new FTC will find initial compliance with the Act simple and straightforward because Florida is one of only a handful of states which offers a standalone statutory framework for the formation, operation, and regulation of FTCs. The Glitch Bill will make Florida's FTC legislation competitive with or superior to FTC legislation anywhere.

The proverbial 'hold' recommendation

Is it suitable or is it legally actionable?

By Matthew N. Thibaut and Jason S. Haselkorn
Ciklin Lubitz & O'Connell

The recent stock market volatility provides an opportunity to reflect on the suitability of your investment portfolio and estate plan, which may have been on cruise-control during the market's general appreciation since mid-2009. In the past there have been a multitude of market disruptions: oil crisis, Black Monday, recession, the Russian ruble, the dot.com bubble, the 9/11 attacks and the 2007-2009 financial crisis. It's only natural for retirees and investors to ask what's next? Could it be Greece, China or the Fed's move to increase interest rates? For many the cause is not important, but the effects to your investment portfolio and estate plan can be traumatic.

Why this might be the case:

1. Low interest rate environment

In a low interest rate environment, the traditional conservative, less risky, safe fixed income-producing securities are less available (if at all). Higher yield or income levels are only available for investors willing to take more risk than they might otherwise be comfortable taking. Thus, some investors gravitate towards riskier bonds or alternative investments, which can be riskier, opaque, illiquid, or perhaps even fraudulent.

Be careful that you are not relying on past performance to justify a higher than appropriate level of risk in your portfolio. Just because stock market returns have generally been positive for several years, the tendency may be to become over-confident, or look for alternative products or strategies. If your equity asset allocation has progressively increased over the past few years either due to appreciation or a lack of potential alternatives, now might be an opportune time to revisit these concerns with your financial adviser.

On the other hand, if you have sought alternative products or strategies, they are often packaged, and marketed to the investing public as "replacements" for traditional investments, or they may purport to provide an exposure to the upside, with minimal down-side risk. While certain investment products can and do serve specific goals and objectives, be aware that your individual goals and objectives may not be completely in line with those products. Don't take an un-

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Matthew Thibaut


Jason Haselkorn

Matthew Thibaut and Jason Haselkorn are former licensed financial advisers who practice in the firm's securities/investment litigation group. Their securities litigation experience includes common law and statutory claims in connection with investments in equities, bonds, mutual funds, hedge funds, managed money, alternative investments, and structured products.

Are your assets fully protected?

By Mark Montgomery
Celedinas Insurance Group

Affluent individuals look to insurance professionals to provide extraordinary coverage, giving them the security of knowing they are protected from the expense and liability of a large number of complicated and unusual risks. The number and variety of risks that could result in losses are considerably higher for high net worth families than for average households. The complexity of business arrangements, family structures, high visibility, exotic hobbies, and higher asset values makes risk management for affluent families an endeavor requiring the most highly qualified insurance professionals.

An insurance adviser who specializes in working with successful high net worth families will discuss and recommend customized and unique insurance coverages to protect your assets from loss. Several of the more popular coverages are:

Workers' compensation and employment practices liability

There are two basic areas of employment liability: workers' compensation, which pertains to work-related injuries or illnesses; and employment practices liability, which is protection for claims alleging wrongful termination, sexual harassment or discrimination. If you employ full-time or part-time domestic employees, your adviser should work with you to determine the coverage you need to protect your assets against such claims.

Personal excess liability

In today's litigious society, multimillion-dollar judgments have become inevitable, and added liability protection is essential to wealth preservation. When a judgment from a lawsuit exceeds the underlying coverage provided by your homeowners and automobile insurance policies, a personal excess liability policy can protect both your current and future assets from liquidation.

Additional endorsements can mitigate gaps and provide additional coverage for uninsured/underinsured motorist coverage, employment practices liability for domestic employees, fiduciary liability and nonprofit directors & officers liability.

Kidnap and ransom insurance

Kidnap for ransom is a global threat that is increasing in frequency and severity worldwide. Wealthy families are prime targets, and the emotional and financial impact can be devastating. When preparing to travel abroad, you should determine what type of coverage you may need. Depending on the policy, coverage may include ransom payments, hostage-negotiation fees, consulting fees, loss-of income compensation and medical and psychiatric care.

Personal security consultation

Security considerations in the home go beyond alarm systems and cameras. An experienced broker will offer suggestions and resources to protect access to properties, provide visual privacy, defend against crime and give family protection. Many activities that wealthy families pursue have potential security risks that can be mitigated. For example, vacation travel planning can be slightly modified so that the location of the family will not be disclosed.

This has the additional benefit of not revealing that the primary home is vacant, which lessens the risk of burglary.

Mark Montgomery advises successful families about their complex personal risk, and designs and manages risk management programs to mitigate and protect against loss. Mark has 25 years of insurance expertise, 15 of which have been specifically focused on the property and liability risk management needs of affluent families in Palm Beach.

Mark Montgomery

Domestic staffing is another sensitive area of security. Monitoring and recertifying the backgrounds of associates, contractors and domestic staff is increasingly important. You may have carefully vetted these employees at initial engagement but, over time many factors can change the dynamic of the employer relationship. Unlike outsiders, these domestic staffers are allowed within the secure environment of the home and have access to family members and confidential information. Helping prevent potential crimes and providing coverage for subsequent losses are critical areas that your insurance professional will address.

Excess flood insurance

Many affluent families own homes in coastal locations that are more susceptible to tidal flooding. The National Flood Insurance Program only offers coverage up to $250,000 on residential dwellings and $100,000 for personal property. Unfortunately, these options fail to provide enough coverage to fully rebuild highly valued homes and replace their expensive contents damaged by flood and storm surge. Additional excess flood coverage is available through specialty markets and should be considered.

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TREASURE

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tracked by Knight Frank increased in value except for collectible furniture; alternatively, classic cars, coins, stamps, and jewelry were the top performers.

Another issue facing HNW individuals is that fine art, jewelry, antiques, stamp and coin collections, and classic automobiles are personal possessions that may be displayed or stored in different locations. If a theft, fire or natural disaster results in a loss, the collector will need to document which treasure assets were stolen, damaged, or destroyed, as well as their individual and collective values.

That's not an easy task if receipts are stored in a shoebox — a common habit, even for HNW individuals — or kept in a file cabinet that was also lost in a fire or flood.

On the positive side, many HNW individuals enjoy adding to their collections whenever they see a new opportunity. Before making a purchase, though, they may want to review their current holdings to be sure they don't already own a similar asset. At other times, collectors may be ready to sell a piece that has lost its appeal for the right price. With both scenarios, HNW individuals need immediate access to information about their collections — something that is almost impossible without a modern management system.

Today, antiquated shoebox, filing cabinet, and paper notebook systems can be replaced with state-of-the-art, cloud-based software applications like our Kravit Collections Management system. These online applications allow collectors and their representatives to access a wealth of information about their collections from their computer, tablet, or smartphone. It's just as easy to see each piece and review the holdings from a yacht in the Mediterranean as a penthouse in New York or a ski chalet in St. Moritz.

Because cloud-based collection management solutions have virtually unlimited storage capacity, information about each piece in a collection, including multiple images and documents, can be uploaded to an individual, family, family office or institutional account. That means purchase receipts, condition reports, annual appraisals, insurance policy information, and other documentation can be stored in an online "vault," protected by bank-level security with on- and off-site backups to ensure that the data is protected at all times. If there is a loss to an individual's collection, all the relevant information is readily accessible, accelerating the filing of an insurance claim for financial recovery.

Cloud-based solutions also provide a solid platform for timely and efficient valuations of high-end collectible investments — an important consideration for financial advisors and estate-planning professionals working closely with HNW clients. For example, Kravit Collection Management includes an updating service that ensures current market prices are reflected in the values of each piece and the total collection.

Along with offering these types of benefits, cloud-based collection management applications simplify the lives of HNW individuals and families. These subscription-based services allow collectors to enjoy their holdings, in digital format, and share photos and selected information with family members, friends, and advisors. They also allow institutions to create clean, professional, read-only online versions of their collections.

In summary, cloud-based applications like Kravit Collection Management offer an easy-to-use approach to maintaining up-to-date documentation, images, and values for individual treasure assets. It is an ideal solution for overcoming the many challenges associated with collection management.

One of the state's few certified estate appraisers, Andrew Kravit is founder and president of Kravit Estate Appraisals LLC in Boca Raton, Florida, leading a team of experienced appraisers in 30 asset classes. He is a Graduate Gemologist from the Gemological Institute of America and holds other professional credentials.

Asset or accessory: jewelry in estate planning

By April Matteini
and L. Emerson Tuttle
Skinner, Inc.

Since ancient times humans have been adorning themselves with jewelry. Archaeologists have found evidence of goldsmithing activities dating back to 2500 B.C., and it is believed that the custom of the wedding ring is almost as old. Throughout time jewelry has been given and worn as a symbol of power, love, protection and beauty. It remains part of contemporary lifestyle to mark individual and family milestones. It is hard to ignore a tradition with this record of staying power. However, jewelry is often overlooked when it comes to estate planning.

Based on its millennial role in human tradition, jewelry has been a common part of most estates. Jewelry's sentimental value often overshadows the benefits

Jewelry is a liquid asset, which means it can be easily monetized. In estate planning it is important to know the value of all jewelry if the estate is going to be taxed or if it needs to be monetized to cover personal or charitable financial obligations.

of valuing it from a purely financial perspective. Even the smallest gold trinkets have real economic value. As defined by Webster, jewelry is an asset. It is a liquid asset, which means it can be easily monetized. In estate planning it is important to know the value of all jewelry if the estate is going to be taxed or if it needs to be monetized to cover personal or charitable financial obligations. When considering fair and equitable division even pieces whose value might fall below the federal estate tax return threshold should be evaluated.

There are several financial reasons that jewelry should be appraised for proper estate planning. An expert appraiser will recognize subtle features of a piece that often drive dramatic differences in value. Most people assume a higher value for a Rolex than a Timex, but could you separate natural from cultured pearls? Has information about an heirloom been accurately documented and handed down? Two strands of pearls might appear comparable, but one is natural and one is cultured: the value of the natural pearls could be as much as one hundred times the cultured pearls. An expert appraisal and a laboratory report is recommended to understand the value of what you own.

Gemological technology has rapidly changed over the past several decades, and the current marketplace favors gemstones which are accompanied by laboratory reports. A sapphire purchased in the 1920s could turn out to originate from the region of Kashmir, which produced gemstones for a brief period of time. These gemstones exhibit certain gemological properties that make them highly coveted in today's market. A 5.43 carat Kashmir sapphire ring was sold this year at Skinner for a record-setting $543,000. A modern sapphire of comparable size, which may have been heated to enhance the color, a treatment method widely used and accepted, will have a much lesser value. A laboratory report will identify these characteristics in a gemstone.

The importance of an up-to-date appraisal also applies to diamonds. Years ago it wasn't uncommon to purchase a white, "eye-clean" diamond from the most reputable of retailers. Today precise scientific classifications have become the norm in diamond appraising and purchasing. The difference between D and E color diamonds, both once considered white, means a significant price variation

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April Matteini

L. Emerson Tuttle

April Matteini, Graduate Gemologist, is the Regional Director for Skinner in Florida. With more than twenty years of appraisal experience, she is at home evaluating a wide range of material from an individual piece of jewelry to entire estates.

As Vice President and Director of Institutional Relations for Skinner, L. Emerson Tuttle works in partnership with banks, law firms, and other trust and estate settlement professionals, to help service clients who are settling an estate, selling a collection, or downsizing a home. Emerson also assists museums, nonprofit and for-profit institutions with deaccessioning and collections management services.

Credit shelter trusts: Still a necessity?

Matthew N. Turko

Matthew N. Turko practices in Wills, Trusts and Estates at the law firm of Haile Shaw & Pfaffenberger P.A. in North Palm Beach. Matt focuses his practice on estate planning, federal income and transfer tax issues, and probate and trust administration.

By Matthew N. Turko
Haile Shaw & Pfaffenberger P.A.

There have been significant changes to the Federal estate, gift, and generation-skipping transfer (GST) taxes in recent years. Under the provisions of the American Taxpayer Relief Act of 2012 (the "2012 Act"), the Federal gift, estate, and GST tax exemptions have increased to $5.43 million (as of January 2015) and are each scheduled to increase annually for inflation. In addition, the 2012 Act also made permanent the concept of "portability" of the estate tax exemption, which allows a surviving spouse to receive any unused estate tax exemption of the predeceased spouse. This makes it possible for a married couple to shelter $10.86 million of assets between them from Federal gift, estate, and GST taxes. These changes necessitate a careful review of estate plans established prior to the 2012 Act.

Historically, the estate tax exemption was significantly lower and there was no estate tax exemption portability. This exposed many more married couples to the estate tax. A ubiquitous component of traditional estate planning for married couples was to fund a Credit Shelter Trust upon the first spouse's death. The Credit Shelter Trust would be funded with assets up to the amount of the estate tax exemption. Any balance above such exemption, if any, would be distributed to the surviving spouse or pass into a marital trust for the surviving spouse. The disposition to the surviving spouse or marital trust would qualify for the marital deduction resulting in no estate tax due. Importantly, this estate plan ensured the use of the predeceased spouse's estate tax exemption and that there would be no estate tax due on the death of the first spouse. Prior to estate tax exemption portability, if the first spouse to die did not use his or her estate tax exemption, such exemption was lost.

Now that the estate tax exemption is considerably higher and there is portability, it may no longer be necessary to implement a Credit Shelter Trust at the death of the first spouse. In fact, the Credit Shelter Trust may actually be disadvantageous to married couples with a combined estate below $10.86 million. For example, if a couple's combined assets are $6.5 million, the first spouse to die may leave all of his or her assets outright to the surviving spouse resulting in no estate tax because of the application of the marital deduction. The predeceased spouse's unused $5.43 million estate tax exemption would then be "ported" over to the surviving spouse. This would leave the surviving spouse with a total of $10.86 million of estate tax exemption to shelter the $6.5 million of assets in the surviving spouse's name from estate tax in the future. Through this plan, the couple would avoid the costs associated with establishing and maintaining a

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How to survive a residency audit

By Michael L. Kohner and Stephanie L. Murray
Andersen Tax

When you receive a residency audit notice from a state, what should you do? First, don't panic! You should then contact your tax advisors promptly to discuss the notice and sign a power of attorney giving them the authority to represent you.

The purpose of a residency audit is to determine whether the taxpayer was correct in filing the state return as a nonresident, part-year resident or whether a resident return should have been filed. Most states tax the worldwide income of their residents. Since nonresidents are only subject to tax on income from sources within that state, the difference in tax liability can be very significant. Due to budgetary shortfalls, high-income tax states such as California, New York, Connecticut and New Jersey have been conducting numerous residency and domicile audits of wealthy individuals.

The auditor will first attempt to establish whether you are domiciled in the state. A person's state of domicile does not change until he moves to another state with the sincere intention of making it his permanent home. If a person moves to another state with the intention of only staying there for a limited time, domicile does not change. States use a facts and circumstances test composed of several factors to determine whether a taxpayer is a resident domiciliary. None of these factors are determinative in and of themselves; instead, the focus is on a comparison and a weighting of the level and types of activities engaged in by a taxpayer in the two jurisdictions in question. It is important to note that it is possible for a person to be domiciled in a state without maintaining a residence in the state or spending a significant amount of time in the state. States typically focus

Stephanie Murray

Michael Kohner

on five key factors when evaluating domicile: home ownership, active business involvement, time, items "near and dear" and family connections.

If the auditor determines that you are not domiciled in the state, he or she will attempt to determine if you are a statutory resident of the state. A statutory resident is a person who is not domiciled in the state but instead maintains both a permanent place of abode in the state and spends a total of a certain number of days in the state (the days requirement varies by state).

To help determine whether the taxpayer is a domiciliary or statutory resident of the state, the initial audit notice will generally request a nonresident questionnaire be completed including questions such as the following:

- If you were once a domiciliary of the state, what was done to change your status from a resident to a nonresident?
- Were you associated with any other business activities conducted in the state (e.g., partnerships, LLCs, S corps, etc.) during the audit period?
- Did you maintain living quarters in the state (owned or rented) or otherwise had living quarters provided for you by another individual or your employer?
- How many days or part days were you physically present in the state?
- Chronological history of your residence(s) and employment.

The questions can be intrusive, and the state will be reviewing your answers in great detail. The audit process may be long and burdensome. Sometimes the auditor may close the case after reviewing the documentation provided in the initial request. Other times, the auditor will request additional documentation to confirm your residence outside of the state, including potentially interviewing witnesses associated with your lifestyle.

Taxpayers should seek advice from professionals who have experience in this area before making a decision to change their domicile. Understanding residency and domicile rules is important for taxpayers when relocating to another state. Taxpayers should keep a detailed account of their travel records and days and partial days spent at each locale. The best record is a log or appointment book showing where you were each day. The state may request to see copies of plane tickets, cellphone records, credit card statements and other supporting documentation such as club expenditures to prove your whereabouts. The burden of proof is on the taxpayer and the evidence must be clear and convincing.

Keep in mind that simply moving to another state may not actually change residency for state tax purposes. And not only is it important to establish connections in the new state, but it is just as important to abandon connections that you had with a former domicile. Without proper planning, a taxpayer may actually have two or more states claiming residency. However, with knowledge of the above factors, along with appropriate actions, changing your residency can be successfully accomplished. If you are selected for a residency audit, having accurate and detailed records is the best way to guarantee a quick audit that results in your favor.

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New Florida law: Gifts to minors under UTMA now until age 25

By Leonard J. Adler, Esq. and Mark R. Parthemer, Esq.

A common method for parents, grandparents and other friends and family to make gifts to minors is to establish accounts per the Uniform Transfers to Minors Act ("UTMA"). UTMA accounts, often referred to as poor man's trusts, like nearly everything else in life, have advantages and disadvantages. UTMA gifts are simple, inexpensive, and enjoy favorable gift and estate tax treatment. Unlike a trust that can continue for extended periods of time, however, the UTMA account must distribute the assets when the minor attains the age of majority. Effective July 1, 2015, Florida law now permits the donor to elect an extended age of majority for certain UTMA accounts, shifting the needle somewhat in favor of these accounts.

"Safety Net" UTMA's – Age 18

UTMA accounts are established as a safety net or intentionally. The law does not identify the accounts as such, but these descriptive labels may be helpful in clarifying the different types. The safety net form is established to receive funds from an estate of someone who died without a Will (i.e., intestate). It operates in those rare circumstances when, but for the safety net, money would transfer from an intestate estate outright to a minor, whether 12 years, 12 months or 12 days old. For a safety net UTMA, the age of majority has not changed, it remains 18.

"Intentional" UTMA's – Age 21 or 25

All other forms of UTMAs are intentional. That is, they are created (1) by a donor creating it directly or (2) by a trustee distributing as per the terms of a trust. Traditionally, intentional Florida UTMAs distributed outright at age 21. Under the new law, a donor can design the UTMA to instead use age 25, with three limitations.

Leonard Adler

Mark Parthemer

1. Limitation #1 – a donor cannot create a UTMA for someone 21 or older and use the age 25.

2. Limitation #2 – due to complex Federal tax rules under IRC 2503(c), if the age 25 is used for an intentional UTMA that is created by an individual making a gift (and not from a trust), the recipient must be given an opportunity to withdraw the funds at age 21. This is because the legislature believed that the vast majority of donors want these gifts to be eligible for the gift tax annual exclusion (currently $14,000), and decided to make the statute "fool-proof" to avoid unintentional disqualification. Accordingly, even if the donor provides that these UTMA accounts terminate at age 25, the beneficiary has the right to withdraw the account property at age 21, as required by the Internal Revenue Code for the annual exclusion. On the other hand, the right to withdraw can be designed as a relatively short window of opportunity, such as 30 days. The right to withdraw, however fashioned, must be delivered to the custodian in writing at the establishment of the account to be effective. Failing that, the minor can take all of the funds at age 21.

3. Limitation #3 – the donor can select 21 or 25, but cannot choose an age in between. This is because the recipient must be a "minor" at the time the account is created, which for these purposes minor is defined as under age 21.

Now, if these limitations thwart the structure you wish to establish, a trust may be a preferred vehicle. After all, when a donor creates a trust, he or she has an unlimited choice when the assets must be distributed to the beneficiary. It could be upon attaining a specific age or ages, achievement of certain goals, or the trust could continue for the life of the beneficiary. However, keep in mind another factor – income taxes.

Income Taxation

Especially in today's world of higher income tax rates, planning in this area shouldn't be ignored. Generally, the income of a UTMA account is taxed to the beneficiary on his or her tax return. This was once viewed as a planning vehicle to take advantage of the beneficiary's lower income tax rate, but that is not necessarily true since the enactment of the so-called "kiddie tax." Trusts, on the other hand, are usually separate taxpayers and subject to very compressed graduated rates. However, the use of grantor trusts to enhance the value of gifts is a valuable planning option to consider.

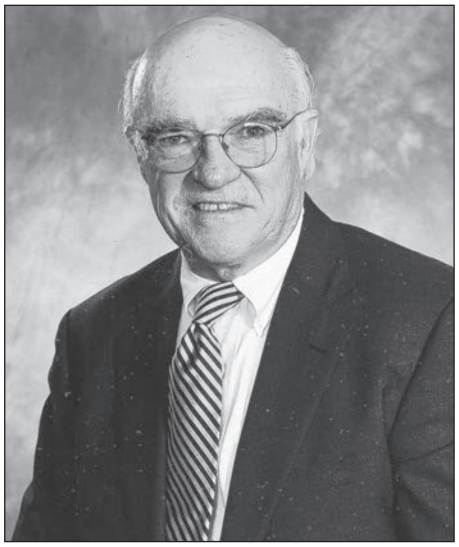
Conclusion

UTMAs can be established without the need for legal counsel to draft a governing document, but some donors were hesitant to use them due to the mandatory age 21 distribution age. The new enhancement to Florida UTMAs may make them a favorable choice for more donors with the expanded age option.

Leonard J. Adler, Esq. Senior Fiduciary Counsel, Managing Director, and Mark R. Parthemer, Esq., Senior Fiduciary Counsel, Managing Director are members of the Estate Planning Group of Bessemer Trust, an exclusive wealth management firm for high net worth families.

Win-win: Self-funding of long-term care risk

The smart answer is a hybrid product which combines long-term care and life insurance in one package.



Dermot T. Healey

By Dermot T. Healey

The old adage "I am scared of getting old; I am scared of being ill," often quoted by Ben Stein, reflects the uncertainty of the increased possibilities of ill health. Aging should be looked upon as a celebration by looking at each birthday as the continuation of our great adventure and not the end of our youth due to illness or the complications associated with paying for illness. Our society thrusts upon us the high cost of nursing home and long-term care, which to some are actually more frightening than death itself.

One way of combating the high cost of long-term care is with insurance; however, traditional long-term care insurance policies have two major concerns for most people:

1. The non-guaranteed premiums, which allows premiums to increase. These increases often occur when one needs the insurance most and may no longer be able to afford it.

2. The fact that, although you may never need long term care, you have paid thousands of dollars in premiums over the years! (The "use it or lose it syndrome.")

The smart answer to these challenges is a hybrid product which combines long-term care and life insurance in one package. The advantage of this asset-based approach is not only does it provide a death benefit, but it also allows one to utilize the death benefit amount should nursing home or home health care needs arise.

The big advantages to this product are:

1. Premiums can never increase as they are fully guaranteed.

2. If you never utilize the long-term care benefit, your cash will have grown tax-deferred, building growing cash value and leveraged death benefits.

This asset repositioning strategy has gained and continues to gain significant traction with affluent and ultra-affluent buyers.

A smarter way to self-insure

Those of us who are self-insuring the long-term care risk would most likely look to liquid and low yielding assets to pay these expenses, such as a savings account or CD. The smart money folks are repositioning these assets today into a product that is 100 percent liquid, grows tax deferred, provides tax free money if the need for long-term care arises and if not, the initial investment plus growth is available for other needs, or will be paid out income tax free as a leveraged death benefit.

This innovative approach can be purchased on one life or two lives. If purchased on two lives it will often reduce the overall cost and increase benefits for both insureds. Money is withdrawn from the death benefit and used to pay for long-term care expenses, totally tax free. This benefit also includes adult day care, hospice care, and even international travel care.

Repositioning self-insured dollars into this type of policy will gain maximum leverage in the event you need long-term care, while at the same time insuring 100 percent of your money will be returned if you do not. In addition, this repositioned money grows at a net rate, after all costs, similar to what you would get in a savings account, short-term CD or money market fund. One hundred percent of your investment is available to you from the issuance of the contract.

The peace of mind that comes with protecting yourself and your family through this innovative strategy is a win-win! Explore this asset based approach; the super affluent are doing it!

Dermot T. Healey, CLU, ChFC, AEP, CASL, CAP, is a life insurance producer helping clients with senior health issues, preserving assets for themselves and their heirs. He also has extensive experience in business succession planning for closely held and family businesses. Dermot's strong suit is finding understandable solutions for complex family business and estate challenges. Dermot can be reached at dhealey@comcast.net, office 561-743-6874, or cell 207-415-2269.

Protect your digital footprint

"Treat your password like your toothbrush. Don't let anybody else use it, and get a new one every six months." — *Clifford Stoll*

By Sasha A. Klein
Sabadell Bank and Trust

"When you're searching for answers and you're hurting and you're grieving, you need access, and you need some level of comfort that you've done everything you can to honor your loved one's life."
— *Ricky Rash*

We clearly live in a Digital Age. There are over 2.4 billion users of the Internet worldwide, up 566 percent since 2000. Among Americans, 85 percent of adults and 95 percent of teenagers use the Internet. Of those Americans, two-thirds of them engage in social media. More than 50 percent of American seniors are online with 76 and older growing the fastest. And, a surprising 92 percent of children under the age of 2 have a digital presence.

Sasha A. Klein

When You Hear Digital Asset, Think Electronic Record

Digital Assets are exploding in size, nature, and value. Documents are stored in the cloud, photographs are uploaded to websites, conversations are now text messages, and stacks of letters are now email folders. Digital Assets have changed the way we interact and conduct business.

According to a 2014 global survey (McAfee), the average person has digital assets worth approximately $35,000. Even though digital assets may not be your most valuable assets, they can be some of the most cherished, e.g., family digital photos/videos.

The Issue

We as a culture are amassing significant digital assets. Our smartphones, computers, and online accounts have accumulated valuable and significant electronic data. From Facebook to banking, we use password-protected sites to complete daily affairs for business and pleasure alike, with a reliance on the security of access promised. But what happens to that security promise when one dies or becomes incapacitated?

The growth of digital assets has outpaced State and Federal laws governing them. Terms of Service Agreements (those pesky "small print" documents that pop up when establishing an account that people typically check "agree" without reading), as well as those Federal and State laws, do not contemplate that death or incapacity may prevent access to digital assets. Knowing the prevalence of digital assets, access to your digital assets after death or incapacity is a must. However, without proper planning, administering them can be a nightmare.

A Solution — The Model Act

The legal world took notice of the obstacles an executor and other fiduciaries face and created a Model Act called the "Uniform Fiduciary Access to Digital Assets Act." The Act's primary purpose is to grant your fiduciaries the authority to access, control, and manage your digital assets while maintaining your privacy and intent. Longstanding fiduciary law exists that allows a representative to stand in your shoes after death or incapacity to manage your real or tangible property.

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EXAMPLES OF DIGITAL ASSETS

Computers and their Content (including Documents, PDFs, spreadsheets).	Online Stores, Shopping, e.g., Amazon
Tablets / Phones and their Content	Music accounts, e.g., iTunes
Social Media, e.g., Facebook, Twitter, Linkedin	Electronic Library, e.g., Kindle
Photos / Videos / YouTube	Electronic Financial Accounts and Records
Websites / Domain Names	Electronic Medical Records
Contact Lists / Address Books / Calendar	Documents Stored in the Cloud, e.g., Dropbox
Streaming Video Accounts, e.g., Netflix, Vimeo	Blogs Emails
Online Accounts, e.g., Amazon, iTunes	Virtual Currencies, e.g., Bitcoin

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Coping with family conflict and elder abuse in narcissistic times

By Tina Goodin

Narcissism is at the heart of these conflicts. Every member of the family wants to feel important.

Trusted financial advisors, from attorneys to estate planners, accountants to banking executives, often have the formidable task of providing their clients not only with the best financial advice but also suggesting psychological strategies to navigate potential family conflicts and unresolved issues that can arise from their financial decisions. They may lose sight of what goes on behind closed doors, for example, long-standing family arguments or recent blow-ups as a result of the financial choices parents are either contemplating or have made. What price is peace of mind? It is a good question. Usually parents are attempting to leave a legacy that provides them with comfort as they balance the anticipated although often unknown future needs of their children. The industry will many times lean on detailed documentation to try to diminish the triggers that can set off family feuds. While a thorough paper trail will to some extent generate a positive resolution to touchy situations, there are a few effective interventions that can influence positive outcomes.

Rage, bullying, guilt, and martyrdom are strong emotions that advisors are best off preparing themselves to navigate with their clients. These heretofore soft issues are best off relegated to front and central issues and tackled head on. The role of a psychologist to help navigate these stressful situations goes a long way to ease over the top emotions so that the advisor can concentrate on doing what he or she does best. Family feuding comes in many forms; however, we most often see struggles about winning between and among siblings where one feels the need to be right at the expense of the other being wrong. It is not uncommon to hear one sibling say that they would rather spend all the money fighting in a court of law than let their sibling get any of it. The point is to win, at any cost.

Then there is parent abuse. This is often subtle. Highly manipulative children can influence aging, vulnerable, and sometime physically ill parents to make decisions in their favor so as to triumph over another family member. They can hold parents hostage by withholding affection and ignoring them unless their parents' make the financial choices that the child wants.

There is also the parents' wish to punish. Consider the case of Joe, who was the favored child. In many ways Joe's mother favored Joe over Joe's father. As Joe grew up, his father took out his anger toward his wife on Joe. Years later, Joe was left out of the estate. His father had left his money to Joe's two younger siblings. Financial advisors would do well to open up the subject of family dynamics as they get to know their clients and gain their trust. A psychologist can easily step in to help the family members work out rather than act out their disappointments, sadness, resentments, and anger.

Narcissism is at the heart of these conflicts. Every member of the family wants to feel important. Perceived slights are often magnified because there is a tendency to regress emotionally and lose sight of the big picture when individuals are hurting. Financial advisors who can pick up on clients' hurts that are sometimes embarrassing to share can often facilitate easier resolutions and better decision-making.

Dr. Tina Goodin

Seemingly small items can become bigger than one would expect. For example, one family member may want a ring left by their mother. Another family member may also want it. The ring can become the basis for a family feud, with family members taking sides and rebuffing one of the two family members who wanted the ring.

At the end of the day, these tugs of war are one way to cope with grief. The sadness of losing a parent or the sadness of not being the chosen one by the parent may be at the heart of their acting out. Long standing unspoken conflicts can now come to the surface. Financial advisors can have high pitched emotions and roller coaster drama in their offices that can be circumvented with the help of a psychologist, thereby freeing him or her up so that the focus is on helping their clients make the best financial decisions possible.

Dr. Tina Goodin, a Board Certified Clinical Psychologist, has been working with high net worth clients for 30 years. She brings expertise that exceptional clients are looking for in a Clinician who understands how to implement state-of-the-art counseling. She can be reached at 561-301-1464.

Bitcoin: fad or the future?

By Suzanne Holmes
PNC Wealth Management

An alternative currency that exists strictly as digital code, Bitcoin has received a lot of attention. But its exact purpose has been a bit unclear. Is it the future of currency, an investment opportunity, or something else? Here is a brief introduction to Bitcoin — what it is, how it works, and what some of its potential pitfalls might be.

Bitcoin as Currency

Bitcoin isn't a company but a virtual currency supported by a peer-to-peer computer-based, electronic cash-like or digital system first outlined in 2009 by an anonymous person or group using the name Satoshi Nakamoto. Unlike printed currency or coins that are minted under government auspices, Bitcoin is created by "mining." That is, it is created by using complex software to solve complicated mathematical computations. Solving a problem creates a so-called "block," and the computer that solves it is rewarded with a set number of digital bitcoins, each of which is simply a set of one public and one private cryptographic keys.

Most users acquire bitcoins either by buying them with physical, traditional currencies such as dollars, or accepting them as payment for goods and services. Advocates argue that the advantages of the Bitcoin system include:

1. It's not controlled by any government's central bank.
2. A global virtual currency facilitates global commercial transactions.
3. Every block and Bitcoin transaction is recorded.
4. Though transactions are recorded, the payer and payee are anonymous, much like a cash transaction.


Suzanne Holmes

How Does a Bitcoin Payment Work?

Just as a physical wallet holds cash, a digital wallet stores the private software keys that are bitcoins. It makes or receives payments by communicating with the network of other Bitcoin wallets. Some merchants and services, especially those that focus on online or international sales, are starting to explore Bitcoin transactions. Physical bitcoins, which have a software key embedded in them, have begun to be minted. However, acceptance of bitcoins as payment is entirely at a seller's discretion; there is no guarantee you'll be able to spend them where you want to or get the value you expect.

Speculating in Bitcoin

Bitcoin's usage as a currency is a ripple compared to the tidal waves of investment speculation it has fueled. "Investing" in bitcoins simply means acquiring them through one of the methods outlined above. However, to say that Bitcoin as an investment is volatile is an understatement. Over its history, its value has fluctuated wildly as speculation and confidence in it have ebbed and surged. In April 2013, after rising from $90 to $260 over two weeks, a bitcoin's value plummeted to $130 in just six hours; since then, it has undergone multiple double-digit price swings, as reported by the April 11, 2013, BBC news.

That volatility has led to problems for people trying to make payments in bitcoins. It's hard to use a currency when you're not sure from day to day whether the amount in your virtual wallet is worth enough to buy a Range Rover or a tank of gas. Complicating the issue is the fact that the value can vary on different Bitcoin exchanges. However, volatility is only one of the problems that has created havoc from time to time in the Bitcoin universe. The cybercurrency has been subject to cyberattacks that have halted trading briefly on several exchanges. And at one point, one of the largest exchanges abruptly declared bankruptcy and announced that nearly half a billion dollars' worth of bitcoins held there had vanished, though a portion of that amount was said to have been subsequently located.

Hackers and bankruptcy aren't the only reasons Bitcoin holders could lose the ability to spend or exchange their funds. Because of the accusations of money laundering via Bitcoin, governmental scrutiny of digital transactions is increasing. If a law enforcement agency seized the assets of a digital platform or exchange, access to digital wallets there could be restricted.

The Wild West Rides Again

So far, regulatory oversight of Bitcoin has been spotty. The currency is not backed by either a government or any physical asset, such as gold. Major exchanges are located around the world, and the decentralized nature of the system makes it more challenging for governmental regulators to get a handle on it. Unlike accounts at FDIC-insured banks, there is no protection for possible loss

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Suzanne Holmes' 35-year career has been devoted to providing investment management and trust services to her clients. Suzanne received a B.A. and M.A. at the University of Delaware. She is a CFP® and CAP®. Her community activities are many. Suzanne can be reached at 561-650-1406 or suzanne.holmes@pnc.com.

UNIVERSAL LIFE

From Page 14

intend to use Policy Loan Arbitrage. Positive arbitrage can turn negative. If needed, a properly managed policy can provide significant arbitrage that leverages the tax benefits of life insurance. New regulations will restrict illustrations to showing no more than a 1 percent difference between the illustrated cash value growth rate and the assumed loan cost. IUL cash values can be distributed without income tax during life with tax-free distributions up to cost basis followed by non-taxable policy loans that accrue interest. An Overloan Protection Rider can keep the policy from lapsing with zero net cash value and a huge "phantom" income tax on the "forgiven" loan balance.

8. Consider diversification by policy type and carrier. One size doesn't fit all and circumstances change. The Indexed option may be the primary product design driver or it may be an available option with another product type. Some clients want the added security of no-lapse guarantees combined with IUL. Other clients want the added flexibility of multiple investment options. Or the ability to take advantage of rising interest rates when they occur. IUL alone will not always be the most suitable product chassis. Large life insurance portfolios may perform better with diversification to mitigate risk.

9. Policy Plan Management is CRITICAL. It could be the difference between success and failure. Do you still receive reports and in-force policy updates from the people who sold you your policies? Most life insurance policies today are not managed by the same people who sold them. In effect, they have become "orphaned" for policy service. Only 1 in 5 new agents is even in the business after 5 years. Work with your advisors to establish an effective policy management plan.

10. Good Life Insurance serves as a non-correlated investment for your portfolio. Include your life insurance policies when reviewing your other investments. Efficient life insurance policies provide investment returns at and beyond life expectancy that equal or exceed expected returns for the underlying investment.

PHILANTHROPY

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Through founding Bikes For Kidz, Inc. we have honed many valuable personal traits: hard work, determination, perseverance, and time management.

The ability to be on the ground mentoring the students requires a lot of behind the scenes tenacity and diligence.

Philanthropy provided us a unique outlet to learn tools for success that we have utilized in many other endeavors, such as managing the Southern Methodist University entrepreneurship incubator, called the CUBE.

Philanthropy involves more than compassion and empathy, it has taught us to be truly conscious of our community. It taught us how to effect change when we saw a need.

Promoting philanthropy in youth provides valuable personal development and helps develop a "can do" lens for the world. The problems in the community are acknowledged, and young adults learn how to solve them.

Operating a nonprofit organization gave us an opportunity to learn more practical skills, as well. It was a crash course in writing grants, developing business plans, managing and recruiting our peers, and working with adult professionals in many fields to develop viable, tangible, and measurable programs that met the particular needs of the students we were working with in each school.

At the time, these just seemed like responsibilities which were necessary to keep Bikes For Kidz, Inc. running, but the skills we learned have prepared us for going out into the "real world."

Philanthropy provides the opportunity for advance exposure to tasks and projects that otherwise that students wouldn't have the opportunity to learn about until they entered the workforce themselves. The behind the scenes work gives youth a window into event planning, business management, and regulation adherence.

We did not realize that while we were helping Oscar learn to love to read, we were helping ourselves learn what we are capable of learning and doing. Philanthropy in youth can teach skills and traits that better equip them for what is required in their professional lives.

Tom Falk, the CEO of Kimberly Clark spoke to students on our campus about the many philanthropic and social minded initiatives that Kimberly Clark was taking on because philanthropy was becoming the new face of business. Partnering with nonprofit organizations and enabling employees to pursue their philanthropic passion through volunteer days — days that employees may volunteer for organizations instead of coming into work — is just the tip of the iceberg.

Social entrepreneurship and innovation are not just buzzwords; they're something we aspire to in our own careers. Our generation is looking for opportunities to integrate their cause into their workplace to create a fusion between corporate and community.

Actual participation, corporate culture, and direct efforts along with financial support are important factors in their career selection. Philanthropic engagement beyond individual involvement is shaping the way my peers view the business world and the recruitment process —whether it be a small startup or a multinational corporation, and corporate America is taking notice.

Laura and Megan are both Hunt Leadership Scholars, Cox BBA Scholars, and University Honors students at Southern Methodist University, majoring in accounting. They recently returned from University College Oxford University where they completed the final requirements of their International Studies minors. In 2013 Megan was awarded Palm Beach Pathfinder in Business, earned her International Baccalaureate Diploma, and graduated Top Ten of Suncoast Community High School. Laura earned her International Baccalaureate Diploma in 2013, graduated in the Top Five Percent of Suncoast Community High School, and was awarded third in Palm Beach Post Pathfinder in Community Involvement. Outside of the classroom, Megan and Laura continue their involvement with Bikes For Kidz, a 501(c)(3) organization they co-founded in 2007, are student managers of SMU's entrepreneurship incubator The CUBE, interned for the George W. Bush Presidential Center, and are the alumni liaisons for the Hunt Scholars program. They are also consultants to the Advisors for Philanthropic Impact's (API) current Palm Beach Philanthropy Tank project.

Estate planning for your Florida residence

Status of the qualified personal residence trust (QPRT)

A Qualified Personal Residence Trust is designed to transfer a grantor's residence out of his or her estate at a low value for gift tax purposes.

Stephen M. Zaloom

By Stephen M. Zaloom

With respect to estate planning, many decisions surround the devise of a residence. This planning can present tricky issues for the non-expert or out-of-state attorney who can often run afoul of Florida's esoteric homestead laws, which create certain rights in property for spouses or minor children. One option for the residence is with an often-used tactic called the Qualified Personal Residence Trust (abbreviated as QPRT by estate planners).

The QPRT is a tool that was used with more frequency when the federal estate tax exemption was lower. As recently as 2001, only $675,000 per person was shielded as exempt from federal estate tax. The current exemption rate is $5.43 million per person and is set to increase annually as indexed for inflation. Hence, fewer individuals have a need of mitigating exposure to federal estate tax which throws the general utility of the QPRT into question.

A Qualified Personal Residence Trust is designed to transfer a grantor's residence of out his or her estate at a low value for gift tax purposes. A trust is created and funded with the grantor's residence, and if the grantor survives the term of the trust, the residence and any future appreciation in the residence are excluded from the grantor's estate. The grantor retains the right to live in the residence during the term of the trust, and when the trust term concludes, the remainder beneficiaries become fully vested in their interest and gain ownership of the residence. Essentially, with the aim of reducing estate taxes, QPRTs gradually transfer title of real estate to beneficiaries, sacrificing a portion of one's lifetime gift tax exemption amount in exchange for big estate tax savings on death. Determining the value of the taxable gift depends on several variables, including the value of the residence, the length of the trust's term, the age of the grantor and interest rates.

The longer the term of the QPRT, the more effective it is, as more value is transferred tax free to beneficiaries. Of course, the longer the term of the QPRT, the riskier it is, as there is always a chance the grantor dies during its term. The other downside to the QPRT is, at the end of the term, the beneficiaries own the property, and many wealthy individuals are uncomfortable with the idea of not owning their residence, or with the obligation to pay rent to the beneficiaries who are the new owners.

One important aspect to note regarding the Qualified Personal Residence Trust is that ownership of the real estate is transferred to the beneficiaries without an increase in tax basis. If the homeowner died with the residence in his or her estate, the heirs would receive the property with a tax basis stepped up to date of death value. When title is transferred to the beneficiaries through the QPRT, the beneficiaries do not receive the basis step up. For example, if a homeowner purchased a property for $300,000 many years ago, then transferred it via a QPRT to beneficiaries who later sold the property for $1,000,000, the beneficiaries would be responsible for tax on the capital gain of the $700,000 increase in value.

In the past year, Florida litigation involving QPRTs has heated up. Attempts to attack the validity of the trust using arguments unrelated to tax, if successful, may yield a more favorable tax result for certain beneficiaries if the trust is overturned. This is not to say that Qualified Personal Residence Trusts are no longer viable estate planning tools, but the appropriateness of using such a trust is situational.

Determining the utility of a Qualified Personal Residence Trust comes with various complexities. It is recommended that you seek the advice of an estate planning professional to determine whether the QPRT is the right strategy for you.

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JEWELRY

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in today's market.

Knowing the value of your jewelry is important for several reasons. First, you may want to carry insurance against loss; second, current values can form the basis for decisions about its distribution; and third, the presence of a few items of very high value may make "fair" distribution difficult or impossible and engender discussion with heirs and estate professionals about the possibility of sale.

Significant tax savings can be generated by appraising heirlooms passed down from previous generations. A current estate tax appraisal on a high-value diamond ring may result in a step up in cost basis that will surely save taxes in the long term. A 1-carat diamond purchased in the 1960s could have cost $2,000. Today you may pay well over $20,000 for the same diamond. An even more extreme example is an heirloom that has been worn for several generations but is now slated to be sold. If the piece sells for $100,000 without an appraisal the cost basis for tax purposes is $0. If the piece has been appraised at a value of $50,000 as it passes through an estate, the result is a big step up in basis. If an estate is taxable the heirs should want the jewelry included as part of the estate; even if no Federal estate tax is due, it can be well worth the cost of preparing and filing an estate tax return to establish the appraised value of jewelry as the inheritor's cost basis, especially if the jewelry may be sold. Also, any jewelry that was insured at the time of the owner's death is discoverable during an estate appraisal. It is the estate executor's responsibility to review insurance policies for a full accounting.

Jewelry represents beauty, status, sentiment and tradition. It is also an asset that could dramatically impact the value of an estate. Jewelry will in most cases increase in value over the course of a lifetime, but applying professional estate planning practices to the jewelry you own may have just as positive an effect on your present and future wealth.

RECOMMENDATION

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necessary risk or expense. Just remember, there is no "free lunch" and if you have purchased an investment product that appears to be too good to be true, it's always best to get a second opinion.

2. The recommendation to 'hold' or 'stay the course'

While often good advice for many investors, like a lot of things in life, it's not always as simple as it seems. The securities laws require financial advisers to know their customers. This does not simply mean to send you a birthday card, remember your spouse's name, your golf handicap or where you like to vacation. The securities industry rules require much more from your financial adviser. Consideration of your age, investment experience, unique financial situation, investment objectives, tax status, time horizon, and your individual risk tolerance are all required. All of these are important and all may change over time.

Without a detailed analysis and consideration of your individual circumstances, the recommendation to hold on, hang in there, stay the course, etc. from a financial adviser without noting your specific goals, objectives, risk tolerance — is little bit like hearing your medical professional tell you to stay home and have a bowl of chicken soup, rather than making an appointment and giving you a full check-up that likely involves treatment or even a prescription.

Just as it is with any trusted professional, you are relying upon them for their analysis and their consideration of your specific needs. It appears the securities regulators recognized this as well, and in July 2012, the Financial Industry Regulatory Authority (FINRA) established a new Suitability Rule (Rule 2111). Depending on your perspective, this was either a codification of previous good practice in the industry, or an entirely new standard to be applied to the financial advice you have been receiving.

Pursuant to Rule 2111, a financial adviser may not simply repeat a mantra or read from a script. They must obtain and analyze enough customer information in order to have a reasonable basis to believe that a recommendation is suitable.

What's more, many financial advisers are also SEC-registered investment advisers that owe an even higher duty to their clientele, a fiduciary duty to act in your best interest. So the next time you are advised to "hold" or just "hang in there" consider for a moment what exactly that advice is being based upon. What are your specific needs and objectives, or is it simply a phrase being repeated to you and what the applicable industry and legal standard might require of your adviser? Make sure you understand because one way or another you're paying for the advice.

INSURANCE

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Long-term care insurance

Longer life spans have created the need to establish strategies not only to cover medical care expenses, but also to uphold lifestyle expectations. Long-term care assistance includes a variety of services designed to help sustain day-to-day living while allowing you to remain independent. In the event that an individual becomes chronically ill, long-term care insurance ensures necessary care in the environment of choice, without depleting individual or family savings.

It is imperative that successful high net worth families engage the sophisticated services and expertise of qualified insurance advisers who specialize in their unique needs and lifestyles. These professionals should proactively counsel you about emerging trends and exposures to ensure that you have the most up to date and sophisticated program available. They should be a valuable member of your wealth preservation and asset protection team and compliment the services of your tax, legal and financial professionals.

An expert personal risk manager will do far more than facilitate your purchase of insurance products. Risk transfer to insurance contracts should only be done after thorough risk assessments, implementation of risk mitigation strategies, and consideration of self retention of risk.

The nasty facts about elder financial abuse, fraud

By Ferial Andre
Regal Home Health and Care Management

Elder financial abuse and elder fraud are growing threats in the lives of seniors in South Florida today. Seniors make tempting targets. Those with cognitive impairment, neurodegenerative conditions, Parkinson's, dementia, or Alzheimer's are even more susceptible to swindling, fraud, exploitation, and financial abuse. There are many resources available to help the elderly when they become victims, but not much information on prevention.

Ferial Andre

Elder fraud and financial crimes are difficult to prosecute because many seniors seldom realize they have been victimized. Those who do are ashamed, feel responsible, are afraid of retribution, and often do not want to see a family member prosecuted. Of the seniors who were recently financially victimized, 34 percent of those crimes were committed by family, friends, or acquaintances. The National Center on Elder Abuse says that, contrary to popular belief, seniors are more likely to suffer abuse from their own family members acting as caregivers than by a paid caregiver working in the home.

A broad range of activities could be labeled financial abuse: misusing credit or debit cards, stealing from joint bank accounts, theft of benefit checks, identity theft, or threats to force the senior to give away money or property. Other scams targeting seniors include sales of bogus products or services, mortgage and loan modification scams, and free seminars selling fictitious investments or inappropriate financial products that seniors do not understand. The other top senior scams identified by the government are:

- Health care and insurance fraud
- Counterfeit prescription drugs
- Email or "phishing" scams
- Internet virus schemes
- Pyramid or Ponzi investments
- "Sweetheart" or "grandparent" scammers begging for money for a phony sick relative or fake emergency

How can we help the elderly steer clear of scammers and fraudsters so they don't become victims? Teach them to avoid situations that increase the risk of being financially exploited, and educate them about the warning signs of financial fraud and what preventative measures to take.

Warning signs

- Lack of understanding about financial decisions someone is making for them.
- Bounced checks when there should be money in the bank.
- Large checks written to a stranger.
- Loans or gifts to others they can't afford.
- Large sums taken out of the bank or smaller withdrawals several times a week.
- Unusual purchases, like golf clubs when they don't/can't play.
- Large, unnecessary home repairs.

Be wary of elder financial abuse when a family member has:

- Facilitated a sudden change in estate plans, trusteeship, guardianship, Power of Attorney, or signatory and beneficiaries on financial accounts or insurance,
- Moved in with the elder parent and demands financial support, often to support an addiction,
- Moved the elder parent into their own home without notice or discussion, and become secretive about the parent's finances.

Steer clear of fraud and scams

- Never sign blank insurance claim forms or blank contracts of any kind.
- Have an attorney review documents or contracts that you are unsure of.
- Review your credit card and bank statements weekly, insurance and others monthly.
- Never allow anyone or a medical provider to bill for services not yet rendered.
- Review the insurer's explanation of the benefits (EOB) to be sure you received the services billed.
- Give insurance information only to those who provide you with medical services.
- Do not share personal or financial information with strangers, either in person or by phone, mail, or Internet.
- Beware of salespeople selling you something they claim is paid for by Medicare or FREE.
- Direct deposit benefit checks.
- Pay by check so payments can be traced — avoid cash.
- Shred all unused credit card applications.

If you suspect you are a victim, or observe elder financial abuse or fraud being committed — report it. Don't assume someone else already has. You do not

Please see ABUSE, Page 32

REPORT IT

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DIGITAL

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The Act is meant to clarify those same laws and apply them to digital property. In other words, the Act fills a void by creating a legal right where none had existed.

The Act is model legislation that can be enacted by State (not Federal) legislatures and does not become law until approved and enacted by such States. This Act has been introduced but not enacted in the State of Florida, yet. It is on the docket (again) for the 2016 Florida legislative session.

Plan

Amidst the developing legal landscape, it is important that you take a proactive planning approach to secure and protect your digital assets by:

1. Inventory/Roadmap —Keep an updated list of valuable and significant digital assets, including accounts, user names, passwords, etc. It can be written, stored electronically, or a hybrid.

2. Tangible Media — Regularly back up data, e.g., digital photos, to a local storage media (computer's hard drive, DVD, USB flash drive, etc.).

3. Online Tool — Use an online tool where available, e.g., Google Inactive Account Manager or Facebook's Legacy Contact, to name another person to manage and have access to your account after death or incapacity.

4. Estate Plan — Include specific language in your estate-planning documents authorizing websites to release data to your fiduciary during incapacity or death.

Such a plan is essential to (i) make a transition easier (or perhaps possible) for your family or fiduciary in the event of death or incapacity, (ii) prevent identity theft, (iii) prevent financial loss, and (iv) protect your digital assets with sentimental value (e.g., photographs, videos, blogs).

ABUSE

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need to prove to the agency receiving the report that abuse is occurring. The professionals will investigate.

Seniors should keep handy the phone numbers of the police, their bank, and Adult Protective Services. To obtain the information for APS in their area, seniors should call 850-414-2000, or visit http://elderaffairs.state.fl.us/doea/aps.php.

The DOJ Elder Justice website is a one-stop information site for victims, families, and caregivers: www.justice.gov/elderjustice/.

Other helpful sites are: www.Stopfraud.gov, and the National Center on Elder Abuse, www.ncea.aoa.gov.

Local resources include the Certified Dementia Practitioners, Geriatric Care Managers, and Certified Case Managers that are trained to recognize financial exploitation of the elderly. These professional Care Management clinicians serve as advocates for the elderly, and after assessment will advise if assistance with managing financial resources is required, or protection and legal advice is required because abuse, fraud, and exploitation may have occurred.

This article is not intended as financial, medical, or legal advice.

BITCOIN

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from a digital wallet. Also, unlike credit card charges, Bitcoin transactions are irreversible.

Obviously, virtual currency still faces a lot of challenges. If you're considering exploring the Bitcoin universe, either for transactions or as a speculative investment, you should become far more familiar with it than simply relying on this brief overview. If you decide to venture into bitcoins, proceed with caution. Be prepared for dramatic price swings and only use money that is not earmarked for another important financial goal. Please refer to Treasury Notice 2014-21 for pending tax implications.

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SHELTER

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Credit Shelter Trust (e.g., annual tax returns and annual accountings and reports to all qualified trust beneficiaries) and exposure to higher income taxes if income was accumulated within the Credit Shelter Trust. In addition, upon the death of the surviving spouse, the $6.5 million of assets would be eligible for a "step-up" in basis to fair market value potentially erasing any unrealized gains for income tax purposes. This benefit would generally not be available to the assets held in a Credit Shelter Trust.

However, it is still advisable to incorporate a Credit Shelter Trust in your estate plan if your assets are near or above the $10.86 million threshold or you believe they may be in the future. In addition, if GST tax planning is a component of your estate plan, a Credit Shelter Trust should be used in order to allocate the GST exemption of the first spouse to die so the GST exemption is not lost. Unfortunately, GST exemption, unlike the estate tax exemption, cannot be ported to a surviving spouse. In these instances, married couples will generally derive an economic benefit from funding a Credit Shelter Trust upon the first spouse to die and allowing the funds in the Credit Shelter Trust to grow in value for the benefit of the family free of future estate and GST taxes. Of course, there may always be important non-tax reasons for utilizing a Credit Shelter Trust, such as your spouse has existing or potential creditor issues, your spouse is not comfortable managing the assets, or it is not a first marriage and there are children from other marriages.

In short, since there have been substantial changes in the laws in recent years, it is advisable to review your estate plan with a Credit Shelter Trust implemented prior to the 2012 Act as some simplification may be in order in your particular circumstances.

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