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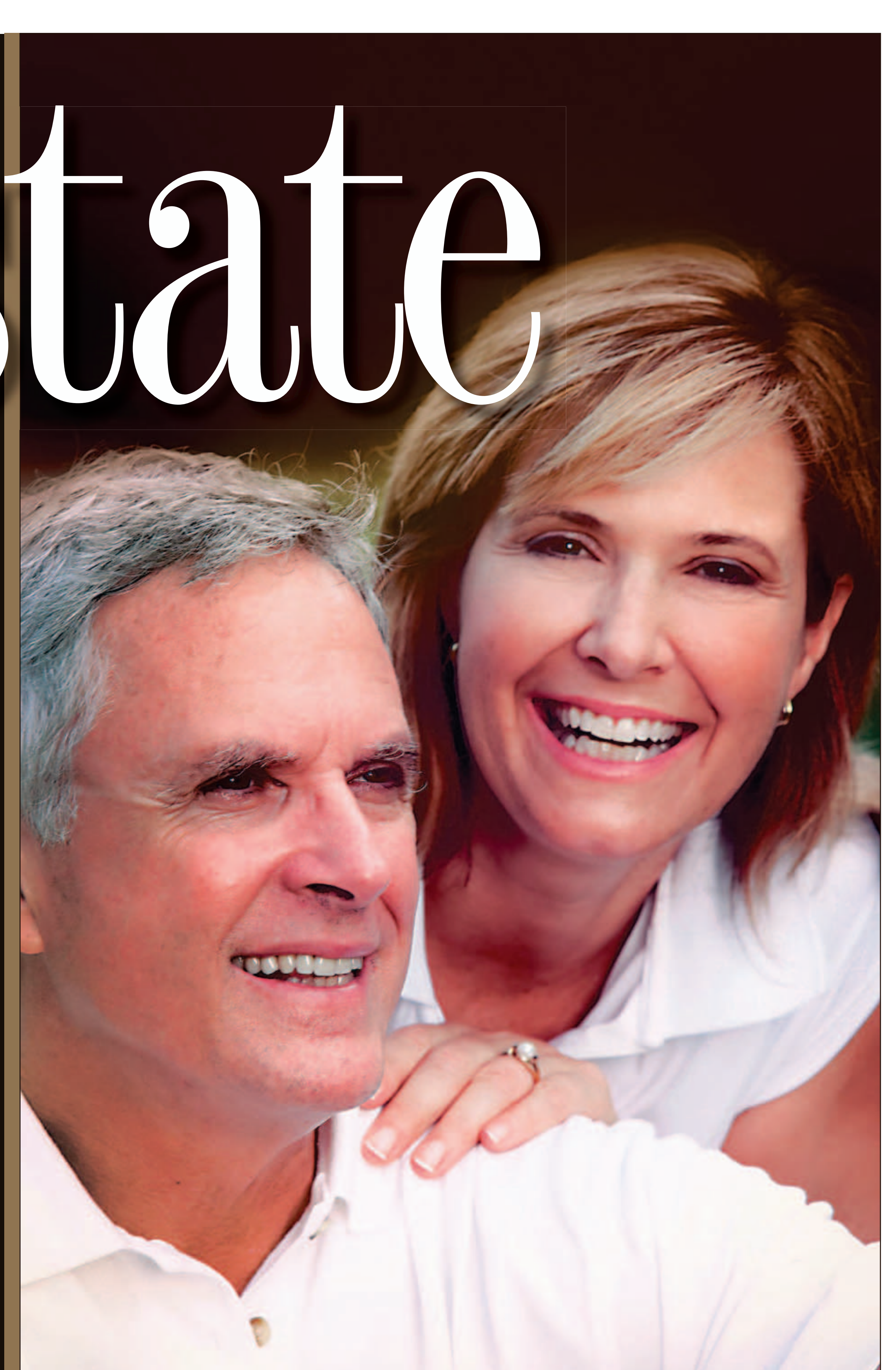

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The Estate Planning Council of Naples, Inc. is pleased to bring you our 32nd annual Estate Planning Supplement to the Naples Daily News. The members of our Council consist of Trust Officers, Chartered Life Underwriters, Estate Planning Attorneys, Certified Public Accountants and Certified Financial Planners who are passionate about estate planning matters and have a desire to render the best professional services to the public.

Our organization is a member of the National Association of Estate Planners & Councils (NAEPC). Our members are advisors who enjoy collaborating to bring better advice to the clients they serve. Our organization fosters these relationships among the disciplines in the field of estate planning and assists members in keeping abreast of matters affecting estate planning.

We invite you to read the articles herein written by our members from various disciplines to increase your awareness about many estate planning topics. Our hope is that it will broaden your knowledge and help you understand what estate planning is and why it is such a vital part of financial wellness.

For a list of our members, please visit our website www.epcofnaples.org.

On behalf of our council, thank you for reading our supplement.

— Ann Graham Alfes, President

How Much Is Enough???

By Amy Owen and Lisa Nakfoor

When we began our practice in estate planning, our clients' main focus was on the federal estate tax. With a tax of 55% on estates in excess of $600,000, it was easy to see why tax minimization was their top priority. Presently, with the exemption at $5,490,000 for 2017 and the potential elimination of the estate and gift tax altogether with the incoming administration, the planning focus has clearly shifted. The questions we get more than any other these days, especially from our wealthiest clients, are how much money is enough to leave our children and our grandchildren and how do we leave it to them without ruining their lives?

In order to properly evaluate these questions, we suggest that you determine and communicate what kind of legacy you are interested in leaving the next generation and generations to come. Identifying your own core values and belief system is the initial step in this evaluation process. It involves asking yourself what wealth means to you and how wealth has motivated you throughout your lifetime. Don't hesitate to work with your trusted advisors to help you with this step. These impactful conversations with clients are why most estate planners and wealth management professionals get into the business.

Once identified, take the steps necessary to communicate this value system to your children and perhaps your older grandchildren. Truly explain who you are and why you believe what you believe. This will help your beneficiaries understand your planning process and allow them to gain valuable insight into how you want your legacy to be passed on to them. Again, don't hesitate to work with your trusted advisors to come up with the best possible communication plan.

Once your have waded through identifying and communicating who you are, what you stand for and why, you must begin the process of evaluating the next generation's values and beliefs. It is crucial for you to determine if they align with your own system. Remember that while many people embrace the values of their older generations, it is also true that many ignore or even reject such values.

If your beneficiaries share your values and belief system, you may feel comfortable giving them access to your wealth, both during your lifetime and through your estate plan. You may fund their educations, support them in business ventures and home purchases, and name them as beneficiaries and trustees of your entire estate.

For those beneficiaries who don't share your values, or for those who simply can't yet (young children, grandchildren or your eventual great-grandchildren), consider restricting the amount of wealth you transfer to them (perhaps by making large charitable contributions) or restricting their access to wealth through protective trust arrangements. Also consider limiting such a beneficiary's access to wealth at vulnerable younger ages when they are developing their own talents and productivity. In particular, avoid the traditional age attainment distributive provisions we've seen in countless estate plans (for example, distributions of the estate in thirds at ages 25, 30 and 35) or automatic income distributions at age 21 or 25.

The question of how to best pass your wealth is answered through planning and communication. You hope you have led by example and created an environment in which you children and grandchildren become independent contributing members of society while adopting your values. If you are concerned that this won't happen, or if you simply can't be sure, place some safeguards in your plan to ensure that your legacy (and the wealth you have worked so hard to accumulate and protect) will be preserved.

Amy Owen, JD, LLM and Lisa Nakfoor, JD, LLM are both with Hawthorn, PNC Family Wealth.

Uh, Oh: When Non-Residents Who Own Homes in a Trust Become Florida Residents

By Lisa H. Lipman

Smart attorneys often advise clients who are buying a home in Florida – but are not residents of Florida – to take title in the name of a trust. Doing so avoids an ancillary probate proceeding in Florida. However, when a person takes title to a vacation home in the name of his or her trust, then later becomes a Florida resident, the transfer to the trust may result in disastrous consequences when that person dies.

Before we get to the solution, let's examine the problem. In Florida, a primary residence is a person's "homestead" property. If a Florida resident is married, the homestead property must pass to the surviving spouse upon the first spouse's death. If the homestead property is held in a trust that does not devise the residence outright to the surviving spouse, the trust's terms regarding homestead property are void.

If this happens, the surviving spouse has two options. He or she can (1) receive a "life estate," the ability to remain in the home for the rest of the surviving spouse's life. At the surviving spouse's death, the house would pass to the first-to-die spouse's children. Option (2) is owning the property as "tenants in common" with the deceased spouse's children, meaning the surviving spouse would own 50 percent of the home, and the children would own 50 percent.

This is often a devastating result for a couple that has had prior marriages.

For example, Sylvia and Nat are a married couple who each have children from prior relationships. Sylvia's trust states her home shall be held in trust for Nat's lifetime. Nat can remain there, sell the house and use the proceeds to buy another home, or use the proceeds for his health, maintenance and support. The trust states that the home passes to Sylvia's children upon Nat's death.

In the absence of any other documentation, this disposition of the homestead property would be void. Nat would be entitled to live in the house during his lifetime, but he could not sell it without the consent of Sylvia's children. If it was sold, Nat would only receive the value of his life estate (a relatively small percentage of the value of the house based on Nat's life expectancy). The children would receive the remaining proceeds. Alternatively, Nat could take a tenancy in common with Sylvia's children, which means that he would receive 50 percent of the value of the home. Sylvia's children would receive the other 50 percent of the value of the home (as opposed to the 100 percent Sylvia had intended them to have after Nat's death).

This outcome would make Sylvia's children and Nat unhappy. So how can this result be avoided?

If Sylvia wants Nat to own the home, she could amend her trust to pass the house to him outright upon her death. Alternatively, she can execute a deed transferring the house from her trust to herself and Nat as "tenants by the entireties," which allows the house to pass to the surviving spouse upon the first spouse's death.

If Sylvia does not want him to own the house, but wants to ensure that he can use it or sell it, she and Nat can execute a post-nuptial agreement in which Nat waives his homestead rights. A waiver of homestead rights ensures that the provisions of Sylvia's trust remain in effect. Whereas a post-nuptial agreement solves the problem, it requires that both spouses fully disclose to each other all of their assets, a situation that may not be viable for certain couples.

It is likely a smart planning decision to hold a Florida vacation home in trust. However, anyone who has transferred such a residence to a trust and then becomes a Florida resident should discuss options with a Florida estate planning attorney.

Lisa H. Lipman is an attorney with Roetzel & Andress, P.A.

Establishing a Florida Domicile for the Seasonal Resident

By Robert H. Eardley

Florida is perhaps the most desirable retirement destination in the country, and for good reason. Among Florida's many positive features – besides year-round sunshine and beaches – are its numerous tax breaks.

Florida's tax breaks include: (i) no individual income tax (including on investment accounts and IRAs), (ii) no death tax, and (iii) homestead property tax relief. Interestingly, Florida's "no income tax" rule is in the state Constitution, and therefore it is likely in place for the long term since only voters may amend the Constitution. Florida "homestead status" affords up to a $50,000 reduction from assessed value and qualifies the property for the "Save Our Homes" exemption. This exemption caps valuation assessment increases to a maximum of 3% annually.

For seasonal residents, Florida's benefits only extend to persons who have established Florida as their "domicile" or "permanent residence." These terms mean the residence a person maintains and intends to keep as one's "home."

A surprise to many is that Florida does not promulgate a formal "domicile test." This is because Florida has little stake in the outcome – since it imposes no income or death taxes. The only caveat to this is for the homestead property tax exemption. In order to qualify for this exemption, Florida does require completion of DR-501, the Original Application for Homestead and Related Tax Exemptions, a form that includes "proof of residency" questions.

These proof of residency questions are the same foundational questions that many northern states have formalized when determining how to impose taxes on their residents. In fact, it is considered essential to take certain preliminary

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steps to establish Florida domicile, including:

- Obtaining a Florida driver's license
- Registering to vote
- Filing a Florida Declaration of Domicile with the County Clerk
- Filing the DR-501, stating that the above have occurred, along with a relinquishment of any other permanent residence.

The foregoing are merely initial steps suitable for all northern states. The critical next step is to engage counsel to safely navigate one's specific state domicile rules. For example, many states utilize both a ì183-day presence test and an ìintent test to determine domicile. The 183- day test is straightforward and one's presence in the state for 183 days triggers domicile. The intent tests vary from state to state and evaluate personal factors and these tests will apply even if one outside the northern state for more than 183 days. Therefore, it is crucial to know the northern state's domicile tests.

Case in point, Wisconsin's top income tax rate is 7.65%. That state applies an intent test to determine domicile. To ascertain domicile, the Wisconsin Department of Revenue's Legal Residence (Domicile) Questionnaire asks obvious questions, such as "did the taxpayer obtain a driver's license and register to vote in the new state?," but it also asks more probing questions, such as whether (i) the Will still lists Wisconsin as the state of residence, (ii) if the taxpayer has purchased a Wisconsin resident fishing license, and (iii) if the taxpayer has renewed any Wisconsin professional licenses.

In light of budget difficulties, some northern states have enhanced efforts to collect domicile-based taxes. For example, Massachusetts has a special "domicile unit" within its audit division that focuses on high income earners who maintain a seasonal Massachusetts residence. Furthermore, some states are using increasingly unexpected methods to determine domicile, such as reviewing a taxpayer's Facebook page.

If Florida domicile is not proven to the satisfaction of the northern state, then northern state taxes will be owed, possibly retroactively with interest and penalties.

Establishing a Florida domicile is the right decision for many seasonal residents. However, it should be implemented with the utmost caution and only with the use of qualified counsel.

Robert H. Eardley is a Florida Board Certified Attorney in Wills, Trusts and Estates with the Law Office of Robert H. Eardley, P.A.

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Private Foundations and Donor Advised Funds

By Robert Napier

"My father used to say, 'You can spend a lot of time making money. The tough time comes when you have to give it away properly.' How to give something back, that's the tough part in life."
— Lee Iacocca

Private foundations (PFs) and donor advised funds (DAFs) are often compared and contrasted. PFs and DAFs are typically the charitable vehicles our clients use to explore the tax and philanthropic highways. Because advisors frequently refer to both PFs and DAFs as charitable planning vehicles, it is helpful to look a little more closely under the hoods of both options.

PFs seem like the cars America produced in the 1960s and 1970s. While these vehicles were meant to be driven and enjoyed, they also dripped some oil and guzzled a little too much gas. Eventually, smaller, more fuel-efficient cars became popular and toured the highways of America. These cars are much like the modern DAF. Although very different from their predecessors, their fuel economy and engineering were impressive.

So which charitable planning vehicle is right for which client? Today, many financial advisors are all but eliminating PFs from consideration, almost predetermining DAFs as the only viable option. Does this mean that PFs are an option whose time has passed now that DAFs are being driven around the neighborhood? Certainly not. In fact, PFs have several attributes that should make them the first choice for many.

For example, it can be less expensive to operate a PF than a DAF. The breakeven point is probably slightly below $1 million. The average account size of a DAF is about $225,000. So, strictly on operating expenses alone, clients making sizeable charitable gifts may prefer PFs.

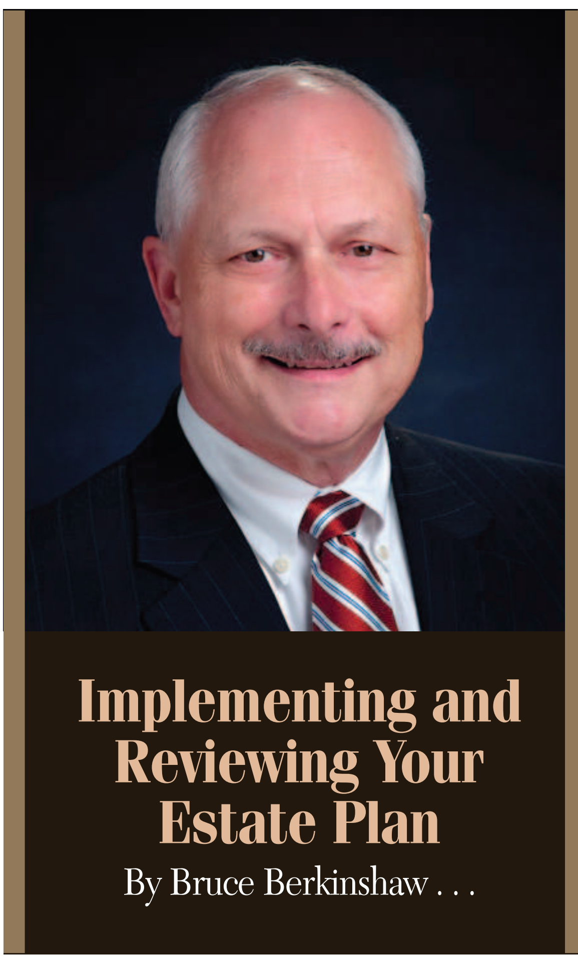
There are other advantages PFs enjoy. Operating a PF can substantially benefit the donating family. While running a PF requires some management, the positive and charitable dialogue required among family members involved in the PF creates an opportunity to foster family harmony. Moreover, the economic reality of the modern world may mean that not every member of a family that wants a job has one. Perhaps not every member of that family is necessarily mentally or physically capable of retaining a job. While a DAF will not hire the family member, a PF that needs staff can employ family members.

Now let us address some of the perceived disadvantages attributed to PFs. PFs must give away at least five percent of their assets each year, while DAFs do not have this condition. (There are rumblings that minimal distributions from DAFs may soon be required.) However, distributing five percent seems like an insignificant disadvantage when you consider that investment returns historically exceed this modest threshold.

Note also that PFs must pay an excise tax, typically one percent of earnings, while DAFs have no such requirement. I look at this small tax like the few oil drops my bright orange 1972 Oldsmobile - the "Orange Crate" - left on the driveway. Do I wish the crankcase was tighter? Of course. On the whole, was the car a joy to own and operate? Without question.

So, when the rubber meets the road, perhaps advisors could better serve their clients by helping them understand which charitable vehicle best fits their driving style. Some clients may even choose both vehicles. After all, both planning vehicles can co-exist comfortably in our clients' estate planning garages.

Robert Napier is an attorney with Harrison & Held, LLP.



Implementing and Reviewing Your Estate Plan

By Bruce Berkinshaw . . .

Congratulations! You have acknowledged your own mortality and created an estate plan. Now, what to do with it? You may think you can lock it away in a safe deposit box and forget about it, but there are still steps required to ensure your plan is properly implemented. And once it is, you will need to periodically review the plan due to life events and other external factors.

How to implement your Estate Plan:

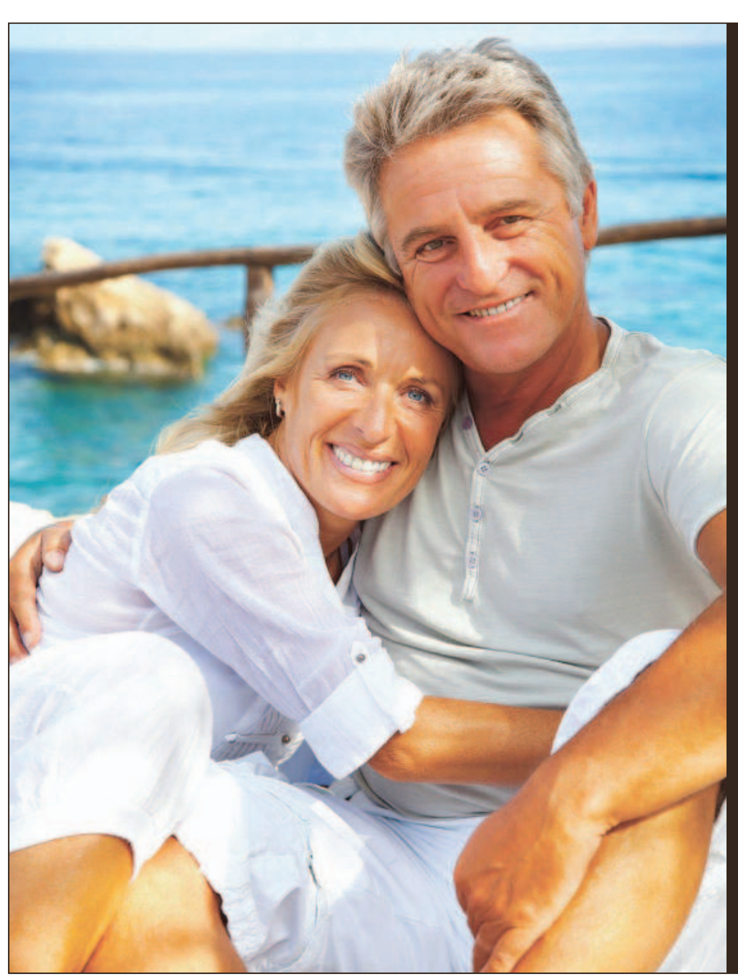
Initial Funding: Once your documents are signed, make sure your estate plan is properly funded. Examine the title to each of your assets, i.e. brokerage accounts, individual securities, etc. and consider retitling those held in your individual name to reflect ownership in your revocable trust. Work with your attorney to determine the appropriate titling for jointly held assets, your home, your automobile(s), and other unique assets.

New Assets: When you add new assets, remember to properly title them in accordance with your estate plan. Assets retained in an individual's name will be subject to probate.

When to review your Estate Plan:

Your estate planning documents are not set in stone. They are drafted to provide flexibility and they remain fluid documents until your death. It is important to revisit your documents at least every two years and more often under certain circumstances.

Beneficiary Changes: Have the circumstances for the beneficiaries of your estate plan changed? Have they become adults or are they incapacitated? Do they have special needs with government benefits? Are they independently



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wealthy, destitute or have they passed away?

Charitable Organization Changes: Are the charities you named in your plan still in existence? Have they moved? Do they still provide the charitable services you originally sought to include in your plan? Do they still intend to honor your future gifts?

Administrator Changes: Are your Durable Powers of Attorney, Health Care Powers, Living Wills, Wills and Revocable Trusts still reflecting the appropriate parties to administer those documents? If you have divorced, is a former spouse still named in those documents? Does your spouse no longer have the ability to act in that capacity or has your spouse passed away? Have you named an appropriate, an alternate choice who is able to act?

Domicile Changes: Have you moved to a different state and changed your domicile for tax purposes? Are there provisions in the documents that are not applicable in your new state of residence? Have your documents been reviewed by an estate planning attorney licensed in your new state?

Estate Tax Changes: Have there been changes to the tax code? Uncle Sam will always be tinkering with the estate tax laws. This election year, we saw how opposite views on estate taxes could impact people differently. With that said, anytime there are changes to the tax code, it is important to do a document review.

Although there are no hard-and-fast rules, this guide should help you identify the appropriate times to periodically "dust off" your estate plan to keep it current and ensure it properly addresses your desires.

D. Bruce Berkinshaw, JD, CTFA, and Virginia Cabai, JD, LLM are both Trust Administrators with Finemark National Bank & Trust.

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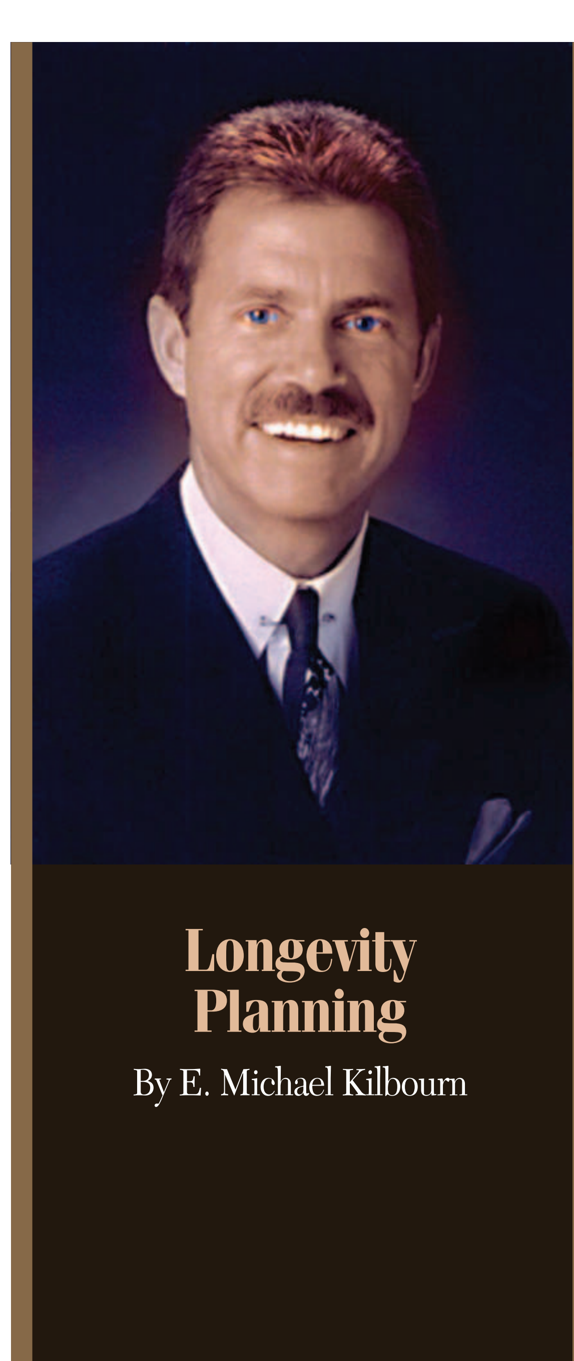


Longevity Planning

By E. Michael Kilbourn

According to the US Census, life expectancy is projected to improve as a result of medical and technological advances. With average life expectancy in America being eight years longer today than it was in 1970, are you prepared to live longer?

For most people, planning for retirement or their later years is focused primarily on finances, and how they will spend their time. Often overlooked are legal and medical considerations and a more holistic approach to financial planning known as "longevity planning."

Longevity planning involves not only financial issues but other important areas such as: Medicare, social security, health resource planning, long-term care and retirement issues. A qualified longevity planner should be able to provide information on all the above, as well as other areas affecting clients who are approaching their senior years, including transportation, veteran resources, technology resources, and elder finance abuse..

When my wife and I moved to Naples in 1991, we quickly became friends with our neighbor, Louise. Eighteen years later, Louise was still living at home. She told me she never expected to "live this long" and was constantly worried about her finances. She could barely afford to pay for a live-in nurse in her last year. She died just shy of her 99th birthday. The stress of her medical expenses was, no doubt, a contributing factor in her death.

Given the ever-changing financial environment, it is not surprising that many of my clients are worried that they will outlive their money. Add to this the important question of "who will take care of us when we are old and unable to care for ourselves?" Caregiving and the need for long-term care is a pending crisis for aging baby boomers who face the inevitable chronic conditions and difficulties of living longer. We assume the caregivers will be our family members – spouses and children – but that isn't guaranteed.

With that in mind, consider that seven out of ten Americans over the age of sixty-five will need at least one year of long-term care over the course of their lives – a reality still lost on many who make up the Boomer set. With an average length of stay in an adult care facility of 2.5 years, often preceded by years of home healthcare, longevity planning demands that this issue be addressed. That is why I recommend clients consider long term care insurance and show them all the choices they have, including exchanging an existing life insurance policy for one of the new "hybrid" policies that allows them to access the full death benefit, tax-free, if needed for long term care.

Along with taking the proper steps to preserving your physical, mental and emotional health, is the need for a realistic evaluation of your lifestyle choices and spending habits. No one wants to outlive their income, but few people take the time to check if they will have the financial assets to sustain them if they live an extended life. An experienced longevity planner should be able to answer the question of how to protect yourself and loved ones for your entire lives. For example, based on the makeup of a client's investment portfolio, we often utilize a Monte Carlo simulation analysis which randomizes market returns to show the best and worst financial scenarios. We also examine whether a lifetime income annuity might help secure their future and protect their lifestyle.

George Burns once said, "If you ask what is the single most important key to longevity, I would have to say it is avoiding worry, stress and tension." The best way to achieve this is through longevity planning.

E. Michael Kilbourn is a Certified Life Underwriter with Kilbourn Associates.

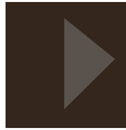
Transfers to Non-Citizen Spouses

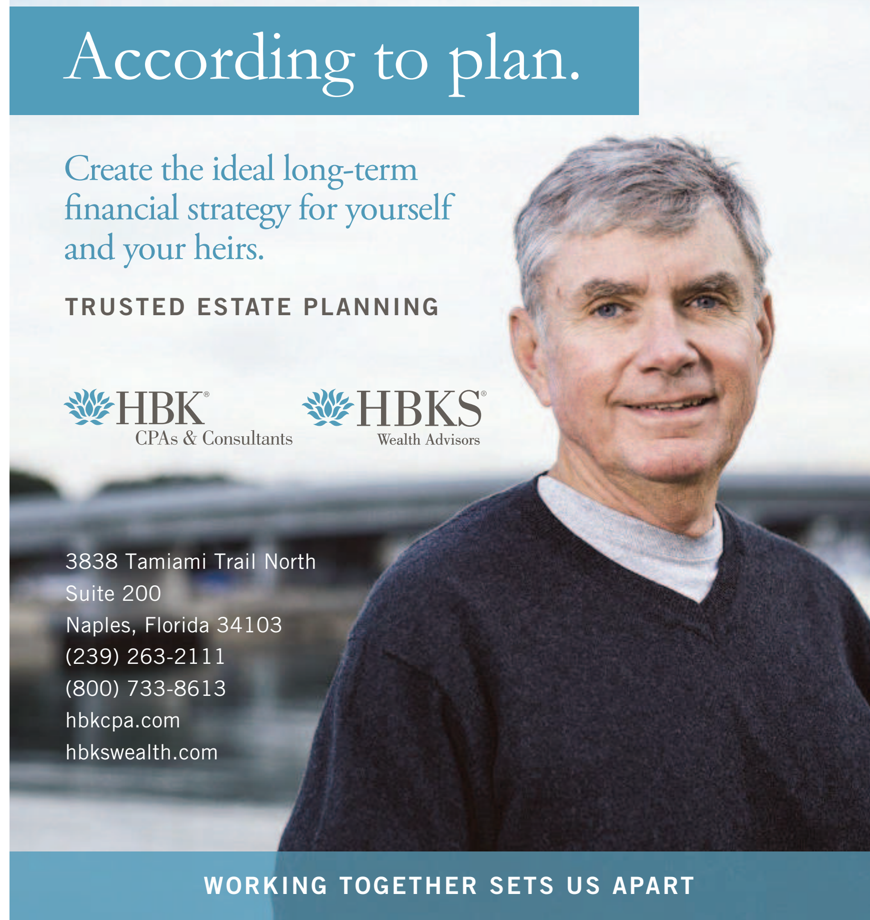
By: Susan Nesbet-Sikuta, Esq.

While love may know no borders, the U.S. Internal Revenue Code certainly does. This Article reviews some of the potential tax issues which exist for transfers to non-U.S. citizen spouses.

U.S. citizens and residents are subject to U.S. gift and estate taxes on transfers of their worldwide property interests. Noncitizen/nonresidents are also subject to such transfer taxes on certain U.S. property. Transfers to one's U.S. citizen spouse qualify for an unlimited marital deduction, effectively postponing any gift or estate tax that may be due until the further transfer of such property as a gift by or upon the death of the recipient spouse. However, a lifetime or death transfer of property by one spouse (whether or not a U.S. citizen or resident) to his/her noncitizen spouse does not qualify for the unlimited marital deduction. Lifetime nontaxable gifts to noncitizen spouses are instead limited to an annual dollar amount ($149,000 in 2017), regardless of residency status of the recipient noncitizen spouse.

With respect to death transfers to a noncitizen spouse, the federal estate tax exemption amount (maximum $5,490,000 in 2017 for U.S. citizens or residents and $60,000 for noncitizens/nonresidents) may protect all or a portion of the transfer from estate taxation. However, the value of an estate in excess of such exemption which passes to a surviving noncitizen spouse does not qualify for the unlimited marital deduction and is subject to immediate federal estate taxation. To avoid such outcome, a Qualified Domestic Trust ("QDOT") for the noncitizen





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spouse's benefit can be established either by the predeceasing spouse under his/her estate plan or by the noncitizen spouse within a set time period following the first spouse's death. Property passing into a QDOT qualifies for the unlimited marital deduction. However, QDOTs must comply with rigid federal tax rules, adding dispositive limitations that may frustrate the surviving noncitizen spouse's ready access to QDOT assets. Consequently, payment of estate taxes at the time of the first spouse's death, in lieu of the QDOT, may be preferred in some instances. An insurance policy on the decedent spouse's life may provide the necessary replacement funds to maintain the noncitizen spouse in his/her lifestyle following such upfront tax payment.

Federal gift tax law also carves out some special rules with respect to joint ownership between citizen/noncitizen spouses. For example, the creation of a joint tenancy in real property between such spouses is not treated as a gift at the time of purchase, even if only one spouse actually contributes the purchase funds. However, when that same real property is later sold during the spouses' lifetimes, attention must be paid to the division of the proceeds received. If a noncitizen spouse receives a portion of the proceeds in excess of the percentage of his/her original contribution, a taxable gift is deemed to be made by the other spouse equal to that excess.

If a joint tenancy is terminated due to the death of one of the spouses, other rules apply to determine the extent to which the value of such property is included in the deceased spouse's estate. If the surviving spouse is a noncitizen, then the decedent spouse's estate includes the entire value of the jointly-held property unless the surviving spouse can prove he/she provided a portion of the consideration for the initial purchase.

Although a transfer tax treaty between the U.S. and the noncitizen spouse's country of citizenship may provide more favorable tax treatment than the tax rules described above, transfers between spouses which include a gift or devise to a noncitizen spouse should be reviewed carefully to ensure understanding of the tax consequences.

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Trusts for the Rest of Us

By Joseph D. Zaks

For many years, the Estate Tax Exemption stood at $600,000 per person or $1,200,000 per couple (with the use of trusts as a necessary step to assure that the maximum exemption was obtained). Times have changed. This year an individual has an exemption of nearly $5,500,000 and, without advance trust planning, a couple has an Estate Tax Exemption of nearly $11,000,000, with a bit of postmortem legal/tax filing. So why would you consider a trust as an essential part of your estate plan, given the tax world we find ourselves living in? There are many good reasons.

The first reason, and probably the strongest argument for trust planning, is protection from creditor claims. In today's world, claims can come from many different directions. When a beneficiary receives his or her inheritance outright it becomes a general asset available to satisfy legal judgments and theft by smooth-talking con artists. Money held in a properly structured trust, created by parents for their descendants will not, generally speaking, be subject to the claims of creditors. So, if your children are the losing defendants in a lawsuit for medical malpractice, legal malpractice, negligence, or any of the many other unpredictable events in life, their inheritances should be protected, if the trust is properly structured.

One of the most feared and likely creditor is a divorcing spouse. With approximately 50% of marriages ending in divorce, it is quite likely that one of your heirs will go through this devastating event. This is a very complex area of trust law which should be left to only extremely qualified professionals. Each state is different. Nonetheless, with proper planning, individuals can protect their assets even from spousal creditors.

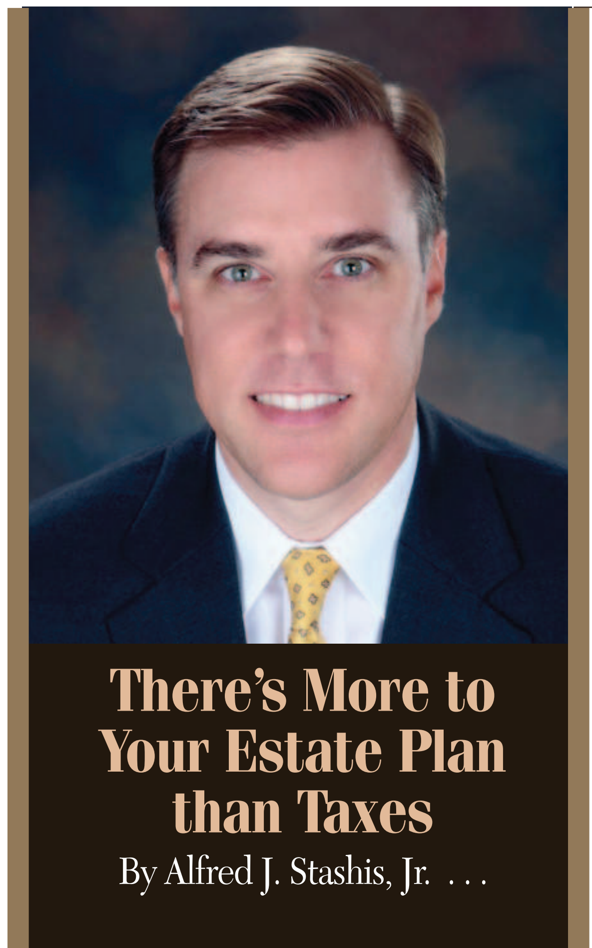
Nearly everyone will be sued at least once in his or her lifetime. Judgments in these cases usually can be enforced against individually owned property. However, it is almost a universal proposition in the United States that a trust created for a beneficiary by another person, such as one spouse for the other spouse or a parent for his or her children may be entirely exempt from the claims of creditors.

If any of your beneficiaries are disabled, you should also consider trusts as part of your estate planning. Obviously, a currently disabled or minor beneficiary should not receive his or her inheritance outright. A physically disabled beneficiary could lose public and private benefits in the event of receiving an outright inheritance. Properly drafted trusts can prevent the loss of benefits for a disabled beneficiary. A mentally disabled or minor beneficiary may not have the capacity, mental or legal, to manage an outright inheritance. A competent trustee can assure the beneficiary receives proper care.

Under some circumstances, a trust can be created in which the beneficiary and the trustee can be the same individual. These trusts can last for the beneficiary's lifetime, and often for several generations. Very little downside will be experienced, while providing significant protection for the assets from unseen and unexpected future maladies. With nearly one in five individuals losing control of their lives to alcohol or drugs, and one in nine Americans over the age of 65 having Alzheimer's disease, it seems to make great sense to have a mechanism such as a trust in place, with named successor trustees, in the event the trustee/beneficiary loses capacity.

Trusts, quite clearly, are not just for the uber rich. Nearly all individuals can benefit their loved ones by creating trusts as part of the overall estate plan.

Joseph D. Zaks is a Florida Board Certified Attorney in Wills, Trusts and Estates with the law firm of Roetzel & Andress, P.A.



There's More to Your Estate Plan than Taxes

By Alfred J. Stashis, Jr. . . .

Estate tax minimization is an important objective for many planning clients. Most clients, however, also seek to achieve a number of other important goals.

Planning for Your Own Incapacity. Your estate plan is not only a plan for the disposition of assets upon your death. It is also a plan that addresses how you will be cared for and how your assets will be managed in the event of your incapacity. Should you be diagnosed with dementia or suffer a severe stroke or other debilitating illness, for example, your estate plan allows you to name individuals to make medical and financial decisions on your behalf. Having a health care surrogate designation and a durable power of attorney in place may potentially avoid the need for an expensive, time-consuming and intrusive court-supervised guardianship proceeding.

Planning for Your Spouse. Clients want to ensure that their surviving spouse will be well cared for when they are no longer here. Yet we frequently hear that elder financial abuse is a growing problem. A well-administered trust can protect your assets and your surviving spouse from such abuse as your spouse ages and his or her health declines.

Planning for Your Children and Grandchildren. Clients also want to provide for the support and education of their children and grandchildren. A well-administered trust can increase the chances that your assets will be there to benefit your children and grandchildren even as they endure some of life's most difficult challenges, including divorce, disability, substance abuse, creditor concerns, or other financial setbacks. At the same time, a well-drafted trust can also

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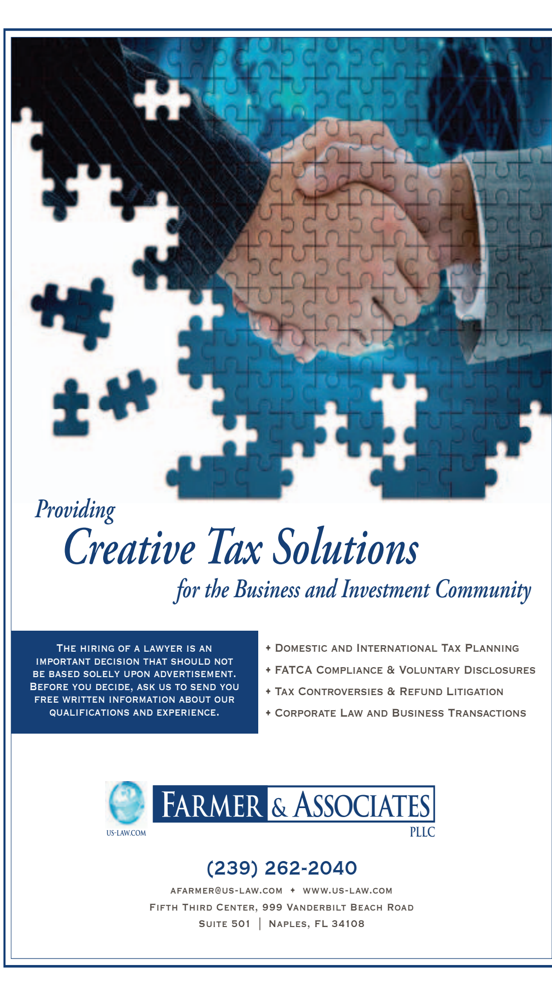

seek to incentivize beneficiaries' hard work and industriousness, so that they do not become overly dependent on the trust for their well-being.

Planning for Blended Families. Blended families are increasingly common. Clients want to look after their surviving spouse and their children from prior marriages. They want to do so in a manner which will minimize the chance of any dispute arising between the surviving spouse and their children. A carefully drawn and well-administered estate plan, frequently including trusts, may help you achieve this objective.

Other Important Objectives. You may have a number of other potentially important planning objectives, including: how best to plan for disposition of the family business; what to do about retirement plans and life insurance assets; how to title out-of-state real estate; how to minimize your assets subject to probate; how to structure your legacy of charitable giving; how to plan for beneficiaries who are minors or have special-needs; how to disinherit an estranged family member; and how to develop a coordinated plan which takes account of homestead and spousal rights under state law.

Regardless of whether your objectives are tax-related or otherwise, please consult with your attorney regarding your specific goals and how best to structure your estate plan to meet them.

Alfred J. Stashis is a Florida Board Certified Attorney in Wills, Trusts and Estates and Denise B. Cazobon is an attorney, both with Dunwoody White & Landon, P.A.

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"I remember when I lost my mind… There was something so pleasant about that place"

– Gnarls Barkley (Duo) "Crazy" 2006

By Misbah Farid and Sarah Lefler

Watching out for signs of mental incapacity can protect your estate plan, or that of a loved one or a friend. However, capacity is anything but a "black and white" concept, and contrary to Gnarls Barkley's words, mental incapacity is difficult to determine. In fact, there are various signs of incapacity:

General: Google lists symptoms such as intellectual impairment, memory problems, and disorientation. However, many people display intellectual impairment before their morning coffee; memory problems shortly after having lunch; and disorientation right after a rough work out.

Medical: According to the American Psychological Association, neurocognitive disorders generally involve memory impairment, inability to perform everyday activities, and impaired perceptual-motor and social skills. But, who hasn't experienced each of these?

Legal: Florida requires testamentary capacity (arguably the lowest measure of capacity) to execute estate planning documents. You must understand the nature and extent of your property, the proper objects of your bounty (your children, friends, or favorite niece), and the nature of your testamentary act (i.e., my will distributes my entire estate to my favorite niece).

Capacity itself is fluid and defies strict definition: one could very well be found incapable of performing one act, but capable of doing another. For instance, you can be sufficiently incapacitated to require a guardianship but nonetheless, on proof of certain elements, still be able to validly execute your estate planning documents. Individuals can also have alternating "good" and "bad" days, meaning that they are lucid one day but confused the next. Such fluctuations may even occur within the course of the same day.

As you can see, it is hard to determine whether someone has capacity. All that is legally required for a person to execute changes to their estate plan is a "lucid interval". Nevertheless, challenges to an estate plan frequently involve questioning the capacity of the testator. While you may believe your children, step-children, and new spouse will always happily co-exist, or that Billy will understand why Sally needs or deserves a larger share of your estate, attitudes can change after you've passed. If they do, fingers will point to your deteriorating mental and physical health suggesting incapacity at the time you made unwelcome changes to your estate plan.

While everyone is presumed to have capacity, proving it can be hard. An attorney (who is here to advise and assist you, not judge) can help you prepare a paper trail supporting the intent explicitly stated in your estate plan. Attorneys have various tools to prevent or ameliorate these disputes by anticipating capacity arguments. Some estate planners defer to the medical world, requiring a doctor's note (which you may want your attorney to keep in their files whether they request such an opinion or not). Other attorneys like to use attorney memoranda to the file containing notes about their impressions of your capacity each time they meet with you; others prepare letters of wishes for you to sign explaining your decisions; some utilize video and audio recordings of you; and some even use "capacity questionnaires," with "simple" questions involving basic addition or identifying the current president.

While it may be unpleasant to think about your mental state and proving it, working with an estate planning attorney and facing these challenges head-on can help ensure your wishes are carried out the way you intended. In fact, facing capacity issues head on before they arise may make losing your mind a far more pleasant experience.

Misbah Farid and Sarah Lefler are both attorneys with Bond, Schoeneck & King, PLLC.

2017 Tax Reform Legislation

By Christopher P. Bray

As of the date of authorship of this article, January 6, 2016, almost every political commentator agrees that Congress will pass and the new President will sign into law a comprehensive tax reform package shortly after he comes into office on January 20, 2017. Only three individuals will be driving this process: the new President, Speaker of the House Paul Ryan, and Senate Majority Leader Mitch McConnell. All three want tax reform and have the majorities in both chambers of Congress to make it happen. In fact, it is very likely that by the time this article is published in March, major tax reform will already be the law of the land.

Not surprisingly, estate tax repeal is big on the list of items most believe will be part of a major tax reform bill. The estate tax has contributed only a marginal percentage of revenue toward federal tax receipts and less than 5,200 people are expected to have taxable estates in 2017. That's a big change from 1976, when almost 8% of taxpayers were subject to the federal estate tax. If the federal estate tax goes away, many of the goals and objectives of traditional estate planning will radically change.

Trump has proposed replacing the federal estate tax with a tax regime similar to one currently used in Canada. A taxpayer's death would trigger a fictional sale of all of her assets at fair market value resulting in a capital gain. The proposed tax on this capital gain would be imposed at a rate of 20%. Taxpayers with estates less than $10 million would be exempt from this tax.

A recent proposal by House Republicans last June provides more insight into other changes expected with major tax reform. The proposal, entitled "A Better Way," would lower the corporate tax rate to 20%, reduce the number of individual tax brackets to three (12%, 25%, and 33%), and permit 100% business expensing. There would also be a 50% deduction for capital and complete repeal of the hated alternative minimum tax. The proposal would still retain some of the tax code's popular items, such as the earned income tax credit, the mortgage interest deduction, and the deduction for charitable giving. The standard deduction would be raised to $24,000 for married couples and $12,000 for single adults.

Major tax reform is also likely to include a number of changes to the way U.S. companies are taxed abroad. By lowering corporate tax rates and adopting a "territorial" system of international taxation of U.S. companies, many believe American firms will be more competitive in foreign markets. Changes will likely also permit companies to repatriate significant profits earned abroad into the U.S. without onerous tax consequences. This possible change is of great interest to many CEOs of U.S. companies including Tim Cook, the Apple CEO who would like to repatriate some $200 billion in profits currently being held overseas.

With all of the expected changes to the tax system this year, expect as many changes in tax planning. Work closely with your advisors to determine how these changes will impact you and your family.

Christopher P. Bray, JD, CPA, is a financial planner with Arial Capital Advisors, LLC.

What Will I Need to Do When My Spouse Passes?

By Kim Ciccarelli Kantor

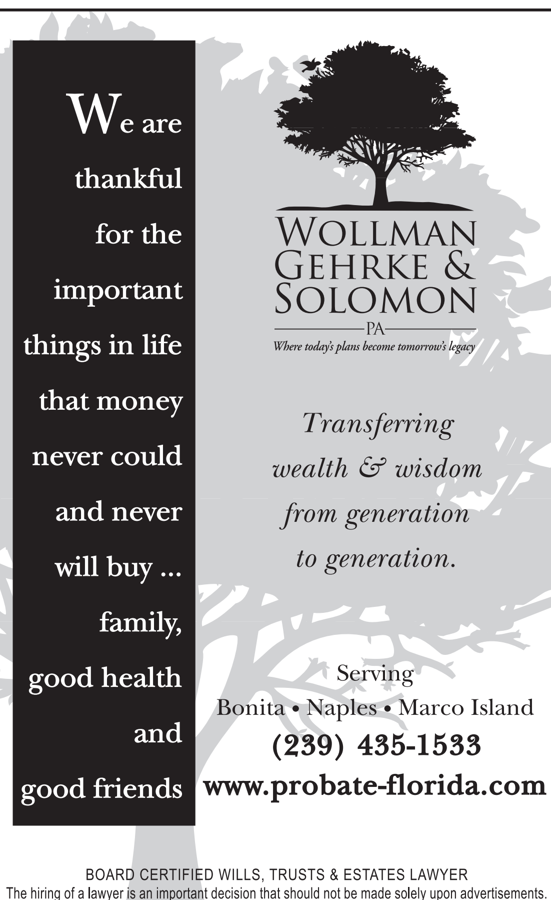
In a perfect world, you would know exactly what to do and who to call when your spouse passes. You would have a checklist of key estate planning considerations, which you had discussed with your advisors and your spouse before they passed. But for all the preparation in the world, it can be difficult to know where to start amidst the sorrow and grief of losing your spouse.

Of course, your first responsibility is to family: handling all of the necessary arrangements for your spouse's funeral and coordinating with your family members. Next, you need to notify your advisors specifically, your attorney and your family financial advisor and set up a meeting to gain a better understanding of your responsibilities as the surviving spouse.

Unfortunately, many people fail to adequately prepare for their spouse's death. Of course, most people execute and sign their key estate planning documents in accordance with their wishes. They work with their financial advisor to name beneficiaries and properly title assets. They open a safe deposit box and make sure there are multiple signors. They secure their domicile and file the necessary homestead papers. They prepare a balance sheet or a ledger of assets.

While all of these steps are necessary and valuable to the estate planning process, these actions will not sufficiently prepare you for the reality of losing your spouse.

In order to effectively bridge any gaps in your spouse's estate plan that could undermine its proper execution, complete a thorough post-death dress rehearsal with your spouse and advisor team. Create a comprehensive list of



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the most important priorities to contemplate at the time of your spouse's death. As morbid as a post-death rehearsal may sound, a detailed rundown of your responsibilities will prepare you for the worst imaginable scenarios.

It is especially imperative to plan for the scenario in which you are incapacitated at the time of your spouse's death and would need to defer to an attorney-in-fact or successor trustee for oversight. Without a complete understanding of your responsibilities after your spouse's death, that situation could create tremendous confusion for your family.

Your spouse's estate plan hinges on the decisions you make when it is implemented. Prior to meeting with your advisors, claim nothing, make no decisions, and do not inform institutions of your spouse's passing. Instead, gather information in preparation for this time. Visit your safe deposit box, and bring your original estate planning documents and your spouse's death certificate. Review your cash balances in accounts that are in your name   both individual and joint to ensure that you have ìoperating funds during the estate settlement process. Create a list of funeral expenses and medical bills   but wait to pay until you've met with your advisors.

During the meeting, talk earnestly with your advisors, who are well-versed on your personal circumstances as well as the planning and distribution options under your plan. Have your advisors review a flow chart of how your affairs should be handled, as well as a checklist of items you will be required to complete in accord with your attorney. Determine who will handle your required income tax return filings, and be sure that creditors are notified if a formal process needs to be followed.

The best way to get a clear understanding of your duties after your spouse's death is to run through the process now. Evaluate your list of executor activities and seek out estate planning opportunities that allow you and your family the flexibility you need. Address the question: ìWhat will be my most timely priorities? Then, most importantly, relax and enjoy life with your spouse.

Kim Ciccarelli Kantor is a Certified Financial Planner with Ciccarelli Advisory Services, Inc.

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The Basics of Income Taxes for Trusts and Estates

By Amy Dalen

Fiduciary income taxes are a complicated topic. When we talk about fiduciary income taxes, we are talking about income taxes for an either an estate or a trust. An estate typically becomes a separate taxable entity when a person passes away. Trusts (other than an individual's Revocable Living Trust filing under the individual's social security number) become separate taxable entities when funded. Once these separate entities come into being, they have their own income tax filing requirements.

Who pays the tax on the income of the estate or trust?

Estates. An estate will generally pay the tax on the taxable income unless distributions (which are not specific bequests) are made to the beneficiaries during the tax year. If distributions are made, then taxable income up to the amount of the distributions will be taxed to the beneficiaries. If the distributions made are not enough to pass out all taxable income, then the estate will pay the tax on the remaining taxable income.

Trusts. Noncharitable trusts typically fall under one of three different categories:

Grantor Trusts: A grantor trust is a trust where the grantor (creator of the trust) has certain powers over the income and/or assets of the trust that will require the grantor to pay the taxes on all or a portion of the taxable income. The trust will generally file a return and provide the grantor with a statement of taxable income to be included on his or her individual income tax return. In some instances, a separate tax return for the trust may not be necessary.

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Simple Trusts: A simple trust is a trust that is required to distribute all its income to one or more beneficiaries, is not allowed to make charitable contributions, and does not make any distributions in excess of the income generated. The beneficiary entitled to the income will be taxed on all or a portion of the taxable income regardless of whether distributions were made during the tax year.

Complex Trust: A complex trust is any trust that is not a simple trust. It will only pass out taxable income to the beneficiaries of the trust if they receive distributions during the year. Thus, if no distributions are made, then the trust will be required to pay the tax on the taxable income. Capital gains that are realized in a complex trust are typically taxed to the trust, and trust income is taxed under compressed tax brackets so that most trust income is taxed at the highest marginal tax rate.

When are these tax returns due?

Fiduciary income tax returns are due on the 15th day of the fourth month after the year end. This due date may be extended by five and a half months. A trust is generally required to file on a calendar year, which would make the tax return due on April 15th, with an extended due date of September 30th. If the trust is a qualified revocable trust of a deceased individual, it is allowed to file a combined income tax return with the estate, using the estate's filing requirements, under a special election.

An estate is allowed to use a fiscal year, which typically ends on the last day of the month prior to death. For example, a date of death of June 14, 2016 would have a fiscal year end of May 31, 2017. The tax return would then be due on September 15, 2017, with an extended due date of February 28, 2018.

As with anything, it is important to consult with your accountant to make sure that any estates or trusts that you are responsible for are meeting their tax filing requirements.

Amy Dalen, JD, is with the accounting firm of Hill Barth & King.

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Adult Guardianship: What does it mean to me?

By Jeffrey M. Janeiro

As individuals age, it can become more and more difficult to manage personal or financial affairs. Guardianship attorneys help individuals and families prepare for this stage of life and make the transition as smooth and comfortable as possible. Below are some questions and answers regarding various aspects of guardianships.

Why would I need a guardian?

In the event you become incapacitated and are no longer able to care for yourself or make financial decisions, a guardian may be appointed to assist with such tasks. By planning ahead and considering your options, you can ensure that the person taking on this important responsibility is someone you truly trust.

Who can be my guardian?

This is an issue which should be discussed now, while you are still able to consider who you trust to look after your personal and financial affairs. It is a good idea to have a conversation with your friends and family members to ensure they are able and willing to take on this responsibility. There are certain statutory requirements for a guardian; for example, your guardian must be a resident of this state unless he or she is related to you through blood, adoption or marriage. Once you are certain who you would want to serve as your guardian, take advantage of the Florida law that permits you to execute a Declaration of Preneed Guardian. A court would only be able to overturn your Declaration if it found it to be contrary to your best interests, which is a high standard.

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Does a guardianship take away my rights and control?

There are various types of guardianships. The level of guardianship that is appropriate in any given situation depends on the level of a person's incapacity. A guardianship may be plenary, which means that all delegable rights will be given to the guardian. Those rights include: the right to contract, sue and defend lawsuits, apply for government benefits, manage property or make any gift or disposition of property, determine your residence, consent to medical and mental health treatment, and make decisions about your social environment or other social aspects of life.

However, a court may also determine that only a limited guardian is necessary. This means the guardian will have authority to exercise only certain rights which the court determines you are no longer capable of exercising for yourself.

There are also some rights which may be taken away but cannot be delegated to any guardian. Those rights include, but are not limited to, the right to marry, the right to vote, the right to have a driver license, the right to travel and the right to seek or retain employment.

And finally, there are some rights which you will retain, even if you are determined to be incapacitated and a guardian has been appointed over you. Such rights include: being represented by an attorney, ongoing review of the need for restriction of your rights, restoration of capacity at the earliest possible time and remaining as independent as possible. The goal is for your guardian and the court to respect your wishes with respect to where and under what conditions you want to live.

Are there alternatives to guardianship?

Of course. The first step is having advanced directives in place, such as a Durable Power of Attorney for financial decisions, or a Healthcare Surrogate. In some cases, those documents alleviate the need for a guardianship. Additionally, a Revocable Living Trust can reduce the need for a guardianship for financial matters, as the successor trustee of your Living Trust can manage trust assets for your benefit without court approval.

Contact an attorney with significant experience with guardianships if you have additional questions about whether a guardianship is right for you or a member of your family.

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Economic Tsunami Challenges Insurers and Trustees of ILITs

By Richard Smarg

The Uniform Prudent Investor Act (UPIA - 1992) and the model Uniform Trust Code (UTC – 2010) impose various trustee fiduciary duties to track and report trust assets. Although duties vary state-by-state and per state trust disclosure laws, every trust agreement stands on its own. However, practitioners generally agree a trustee holding life insurance as a trust asset must engage in some degree of ongoing life insurance policy review to monitor the viability and appropriateness of the policy.

While historically such policy reviews may not have necessitated much if any action by the trustee, this is unlikely to be the case going forward.

The news (good and bad) is that Interest rates have been on the decline for 30+ years. Today, while severely depressed interest and mortgage rates benefit home owners, these rates have significantly thwarted fixed income portfolios and saving strategies for retirement. Similarly, a ***historically low interest rate environment represents an economic tsunami for life insurance companies.***

Typically 80% of insurance carrier asset portfolios consist of investment grade bonds and mortgages. The yield on these portfolios has decreased to approximately 5%. A typical older policy may have had an initial crediting rate well above 5% with a guaranteed minimum of 4-5%. Now, the carrier has no choice but to reduce the policy's crediting rate to the guaranteed minimum, but that still means the insurance carrier is squeezed.

Such financial pressure forces carriers to avoid precarious levels of margin compression (and the risk of declining financial strength and

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compromising their claims paying abilities) through options such as broad-based expense restructuring or a dramatic reduction in policy dividends. As a last resort, certain carriers have been forced to increase Cost of Insurance (COI) charges. During 2015-16, six major carriers have enforced Universal Life COI increases. At one carrier alone, cost increases negatively impacted 28,000 policies.

At the request of a trustee, we recently performed a comprehensive financial audit on an existing $2,000,000 "Survivorship" 1998 life insurance policy. The guaranteed crediting rate was 4.5% and its initial current crediting rate then was 8.0%. Scheduled annual premiums were $20,000. The policy was illustrated to continue beyond age 100. Today's current crediting rate has declined to the 4.5% minimum level, while COI charges have increased. The husband is deceased. The surviving spouse is now age 84. Due to declining interest and crediting rates the policy hasn't accumulated adequate cash values, and increased charges are rapidly depleting accumulation values. At the current crediting rate and projected charges, the policy's projected to lapse at 88. In order to maintain the policy at least through age 100, annual premiums exceeding $114,000 are projected. The trustee is taking proactive steps:

1. Reviewing original facts, circumstances and the policy's purpose.

2. Considering the family's current financial circumstances and the extent to which they have changed.

3. Analyzing the policy's crediting rate, COI charges, and projected premiums.

4. Reviewing the carrier's financial strength and ratings.

5. Stress-Testing projections within "best case" and "worst case" scenarios.

6. Assessing opportunities to modify policy design, type or benefit.

7. Considering income tax consequences of a policy modification or lapse.

All insurance carriers have been affected by the changing economic environment. To help satisfy applicable state UTC and UPIA rules, trustees may want to seek independent professional expertise. Obtain due care guidance. Regularly analyze, identify and compare current and alternative policy scenarios. To the extent desired, communicate with grantors and beneficiaries and attempt to avoid the inevitable loss of important benefits.

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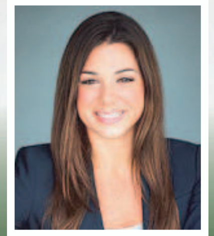
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Estate Planning for Blended Families

By William M. Pearson and Andrew M. Woods

Roughly half of all marriages end in divorce, and approximately 75% of divorcees remarry. The potential for divorce, and remarriage whether as a result of divorce or the death of a spouse, present special estate planning challenges. While every family is unique, common planning concerns for blended families include the potential for inheritances to be diminished by divorce; for children of prior marriages to be disinherited; for acrimony to arise because of delayed inheritances, e.g., by remarriage to a younger spouse; disputes over the authority to manage and distribute assets; and claims by former spouses. To address these issues, it is especially important for blended families to have a good and thorough estate plan. This article will provide a brief overview of two important estate planning tools for blended families.

Nuptial or Marital Agreements

Prior to entering into a second marriage, it is advisable to consider a prenuptial agreement that defines each spouse's rights with respect to the other's property in the event of divorce or death. If not done before getting married, Florida law allows for a postnuptial agreement, which can accomplish the same goals as a prenuptial agreement. A well-drafted nuptial agreement (pre or post) creates a binding contract between spouses and can work in conjunction with estate plans to ensure that both spouses wishes are effectuated and children from prior marriages are not disinherited as a result of a remarriage.

Trusts

From an estate planning perspective, trusts are usually recommended for blended families. For example, assume each spouse in a second marriage has children from their first marriage. Each executes a will that leaves all assets to the surviving spouse at the first spouse's death, then divides the assets between both spouses' children at the survivor's death. This works if no further changes are made to the surviving spouse's estate plan; however, the surviving spouse could alter his or her estate plan after the first spouse's death and disinherit the deceased spouse's children. This potential issue may be prevented, for example, by the first spouse having his or her estate held in trust for the survivor and his or her children from the first marriage.

Trusts help address other issues blended families face. For example, a trust may provide for the surviving spouse with a lifetime income interest, and allow the spouse to receive distributions of trust principal. In addition, if there is a large age gap between the deceased and surviving spouse, the trust could also allow for discretionary distributions of principal to the deceased spouse's children. Finally, a trust may allow for neutral, third-party management and distribution of assets, which may be the best choice to reduce the potential for family conflicts.

Trusts are also able to protect inherited assets from some claims. Although assets held in a trust may not be protected from your creditors, the assets can be protected from your children's creditors, such as the child's spouse in the event of divorce, or claims brought by the child's creditors, and to ensure the assets will ultimately benefit grandchildren or other descendants.

Conclusion

Estate planning for blended families is complex. It is crucial that you review your estate plan with your attorney and other advisors, but especially so if you have a blended family.

William M. Pearson is a Florida Board Certified Attorney in Wills, Trusts and Estates and Andrew M. Woods is an attorney, both with Grant Fridkin Pearson, P.A.

Portability: What It Is and Why You Should be Aware of It

By: John Paul Bratcher and Mark R. Klym

In 2017, the maximum amount that a decedent can give to beneficiaries upon his or her death without causing federal estate tax implications is $5,490.000. What if a married decedent does not utilize all of the $5,490,000 estate tax exclusion at death? This would occur, for example, if the decedent leaves everything to the surviving spouse, qualifying the estate for the unlimited marital deduction from the estate tax and not using any estate tax exclusion. That is where portability of the estate tax exemption is beneficial. Portability is a feature of the federal estate tax whereby the decedent's unused estate tax exclusion is transferred to the surviving spouse and combined with the surviving spouse's own personal estate tax exclusion.

EXAMPLE – Spouse 1 net worth = $3,500,000. Spouse 2 net worth = $3,500,000. Total net worth = $7,000,000. Neither estate on its own will have estate tax liability because both spouses individually do not have assets with a value greater than the estate tax exemption ($3,500,000 < $5,490,000). However, when Spouse 1 dies and gives all of his or her assets to Spouse 2, then Spouse 2 will be worth $7,000,000. Because of the unlimited marital deduction for estate tax purposes, Spouse 1 will not use any of their $5,490,000 estate tax exemption.

BAD NEWS! If the estate of Spouse 1 ***does not file a federal estate tax return and does not elect Portability,*** then Spouse 2 will have $7,000,000 of assets (possibly growing through appreciation), but only $5,490,000 in estate tax exemption because Spouse 1's estate tax exemption was not transferred to Spouse 2. This equals estate tax liability at Spouse 2's death.

GOOD NEWS! There is no reason to lose the $5,490,000 exemption. If the estate of Spouse 1 files a timely Federal estate tax return and elects portability, then Spouse 2 will receive all of Spouse 1's unused estate tax exemption and combine that with his or her own estate tax exemption for a total estate tax exemption of $10,980,000. This allows for the $7,000,000 worth of assets then owned by Spouse 2 to pass estate tax free at the death of Spouse 2.

Married couples who have a combined net worth greater than the estate tax exemption ($5,490,000 and indexed for inflation to change every year) need to understand how portability works, particularly if they want the simple estate plan of passing everything to the surviving spouse. It potentially helps any couple who isn't likely to face estate tax issues or liability upon the death of the first spouse, but who is likely to face estate tax in the surviving spouse's estate when the decedent's assets are combined with the surviving spouse's assets.

There are many different factors affecting the decision to elect portability. These include prior gifting by the spouses, the underlying assets owned by the spouses, separately and jointly, and the ongoing estate planning goals of the spouses. In other words, portability will not benefit every married couple because every married couple's situation is different. The key is for the couple to understand how portability could apply to their estate plan to reduce the estate tax. Then, at the death of the first spouse, the surviving spouse must consult with an estate planning attorney to review if the portability election should be made, and, if so, make the election on a timely filed Federal estate tax return (due nine (9) months after death).

John Paul Bratcher and Mark R. Klym are both attorneys with the law firm of Hahn Loeser & Parks LLP.

This is the Year to Get Organized

What Should Your Advisors Focus on in 2017?

By Edward E. Wollman

aples-Immokalee-Marco Island, Florida is the nation's highest well-being community. Residents there have the lowest levels of stress in the country, report little depression and eat healthy on a daily basis, the report found. Many of them like their daily activities and enjoy an intellectually lively culture, telling interviewers they learn or do something interesting every day." – 2015 Gallup-Healthways poll

We are truly blessed to live in such a beautiful, inspirational area. Southwest Florida is not only naturally exquisite, but also offers an influential community. That said, continued evolution, both personally and financially, is always important. Nothing is guaranteed in life, so don't leave your affairs up to chance. Below are some suggestions.

Flexible Plan
It is imperative to understand your current estate and financial plans and actively discuss with your advisors what can be done to maintain control and flexibility. Your preparations should not be a secret and someone you trust needs to be your confidential backup. Whether it's a family member or professional contact, communication is essential.

Review Insurance
Your financial advisors should carefully review every insurance policy to address any adjustments in circumstance. Long term care policies have changed dramatically and the necessity for life insurance has never been more important. Are your assets and loved ones adequately protected?

Financial Plan
Your advisors must communicate to ensure that they're all in sync regarding the extensive legal changes that could potentially occur in 2017. It is crucial to maximize your benefits considering the current political transition.

F.A.T. – File it, Act on it, or Toss it
This is a great mentality that avoids accumulation of unnecessary paperwork. Clarify with your advisors what should be kept on file and what can be recycled. In this age of digital technology there is no need to accumulate much in the form of papers.

Picture Backup
Learn how to protect and store your family photos. There are several excellent digital storage programs and apps designed to backup and protect your pictures online.

Digital Cloud Backup
No longer do clouds create only rain and shade. Today you need to understand the iCloud concept in order to protect important data. In addition, your advisors should be able to further explain how to secure your identity from fraud. This has become a huge problem with far reaching consequences. Identity theft is rampant, especially in this affluent area.

Go Paperless
Why accrue more paperwork if your important documents are already properly protected and stored in a safe place? Advice is readily available on paperless options. Good luck! It's certainly difficult to give up old habits, but the New Year is a great motivator.

Clean Sweep
Get rid of all junk in your life, one pile at a time. Yes, that includes sugar, bad carbs, and of course, toxic people. Don't forget your sunscreen. Read great books.

Hurricane Preparedness
Please refer to the checklist on our firm's website to prepare for an emergency evacuation. This comprehensive list covers not only your personal safety, but also important financial and legal documents, animal care, and medicine management. We recommend that these plans are not only in writing, but also backed up and shared with at least one family member in addition to your advisors.

Get Peace of Mind

Collier County is an extremely philanthropic community. Feel more fulfilled by getting involved in local charity work. And, since nothing is guaranteed in life, put together the right team of advisors so that you don't leave your affairs up to chance. Plan, build, and leave a legacy; having that peace of mind is truly priceless.

Edward E. Wollman is a Florida Board Certified Attorney in Wills, Trusts & Estates with Wollman, Gehrke & Solomon, P.A.

A Thank You Note From the Editors

We want to thank you for taking the time to read through this year's annual Estate Planning Supplement to the Naples Daily News, brought to you by the Estate Planning Council of Naples. We hope you found the articles to be relevant to the needs of you and your family, either teaching you something new or reminding you of a planning opportunity you have considered but not yet implemented.

We'd also like to thank all of the contributors to this year's Supplement. In a year likely to bring sweeping changes to many aspects of the financial world, it would have been understandable if a request for articles on "Planning" would go unanswered. Who can focus on planning when we don't know what the new rules will be? But instead of avoiding the topic, the estate planners of our community responded with more article submissions than ever before. These dedicated professionals know that you need their help and guidance now more than ever and contributed thoughtful impactful articles on a broad array of topics. We have many reasons to feel fortunate living in Naples. One of those reasons is definitely our vibrant and caring Estate Planning community.

Finally, we would like to mention a few people whose contributions were vital to the completion of this project. First, a huge thank you to Patricia Luppy of Finemark National Bank & Trust. Patty's efforts and positive attitude regarding the solicitation and organization of our advertisers have been tremendous. We simply wouldn't have a Supplement without her work. Second, thanks to Lynn Muffley and Mike DeSmet with the Naples Daily News. Lynn's communications as our liaison with NDN are always clear and helpful. Mike's creative design of the Supplement has been exceptional for many years now, and we are again very happy with the look and formatting of this year's edition. Last but not least, thank you to Manon Yost of Hawthorn PNC Family Wealth. Manon's administrative support increased our efficiency and sense of calm as we solicited, approved, edited and organized this year's Supplement.

If you have a question regarding any of this year's articles, do not hesitate to reach out to the author (contact information on the next page). They are truly here to help you and your family navigate the financial complexities of our world.

Thanks again, and we hope you enjoy the rest of season!

— Amy Owen and Lisa Lipman, Co-Editors

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How Much is Enough?

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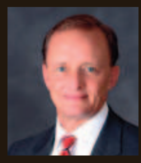
Trust & Residency Issues When Purchasing Real Estate



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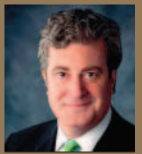
Establishing Florida Domicile



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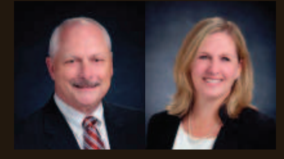

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When Should I Review My Estate Plan?

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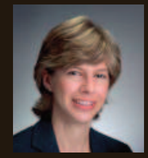
Longevity Planning



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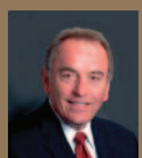
Non-Citizen Spouses (lifetime & post death transfers)



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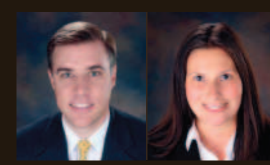
Trusts for the Rest of Us



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There's More to Your Estate Plan than Taxes

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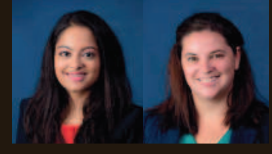

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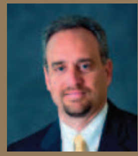
Signs of Incapacity



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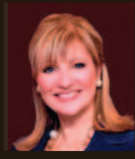
2017 Tax Reform Legislation



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Surviving Spouses Responsibilities @ Death of 1st Spouse

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Overview of Trust & Estate Taxation/Fiduciary Tax Forms

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Guardianship Planning for 2017

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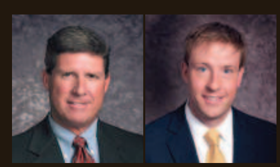

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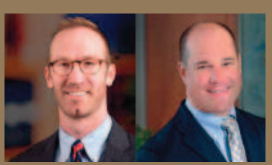
Estate Planning for Blended Families



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Portability

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