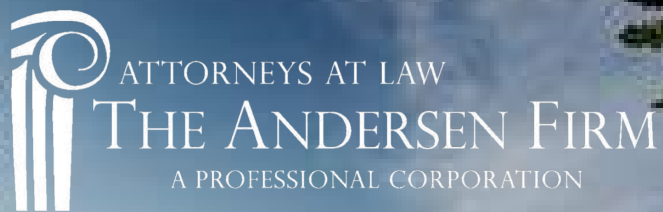


1st Quarter 2017

2017



Current Events Update

for Financial Advisors

Estate Planning | Estate Settlement & Probate
Asset Protection | Litigation | Real Estate

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on the cover

The view of the South Holston River from the South Holston River Lodge where the late Bill Andersen, lodge owner and founder of The Andersen Firm spent time relaxing with family and friends.

Photograph by: Bill Andersen

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THE ANDERSEN FIRM, Attorneys at Law

Law isn't just our profession, it is our passion. You and your clients will thrive from the distinct advantage of being represented and counseled by attorneys who are at the top of their profession. You get a partner and a teammate when you and your clients work with The Andersen Firm. Together we build relationships, developed and nurtured by our attorneys and their highly skilled and accessible team. These will be the relationships you value and trust, year after year.

As a financial advisor working with The Andersen Firm, you will receive guidance on how to position wealth management with your clients, suggested talking points that open communication and strengthen your relationships with your clients, and successful marketing ideas. This team approach allows us to develop a deep understanding of the clients' wishes, intentions and goals enabling us to provide sophisticated, creative and practical approaches to solving the most pressing questions. These strong relationships grant financial advisors and our mutual clients with the service of a boutique firm with the strength and experience of a giant.



Joleen Searles | Management Team

Joleen Searles is the managing attorney in our West Florida and New York Offices. In addition she manages the firm's high net worth and ultra high net worth planning for the firm. Joleen focuses her practice in the areas of Estate Planning, Estate Settlement & Probate and Asset Protection. She earned her LL.M. from the University of Miami, her J.D. from Hofstra University and her B.S. from the University of Virginia. She is admitted to practice in Florida, New York and Tennessee.



Sean Sheppard | Management Team

Sean Sheppard is the managing attorney in our South Florida Office. He focuses his practice in the areas of Estate Litigation, Commercial Litigation, Civil Litigation, Reals Estate Transactions and Real Estate Litigation. He served four and one-half years as Judge Advocate General in the United States Navy. He earned his J.D. from Nova Southeastern University and his B.S. from Stockton State College. He is admitted to practice in Florida, New York, New Jersey and the United States District Court, Middle District of Florida.



William E. Andersen, Jr. | Management Team

Will Andersen (Pending Admission, NY Bar) provides assistance to clients in our New York Office. He has worked closely with The Andersen Firm's partners for over a decade and is a favorite among clients due to his ability to present concepts both clearly and concisely. He earned his J.D. from Hofstra University. He will focus his practice in Estate Planning, Estate Settlement & Probate and Asset Protection.



Jerry Saresky | Management Team

As the Director of Paralegal Services for The Andersen Firm, Jerry Saresky maintains the highest attention to detail and precise implementation of our clients' intentions in their estate planning documents. Since joining the firm in 2001, Jerry has excelled in different positions within the organization, learning vital skills in each step. He earned his J.D. from Nova Southeastern University, where he was a member of the Nova Law Review. He earned his B.S. from Florida Atlantic University. Jerry is a candidate for the February 2017 Florida Bar Exam. .



Erin L. Turner | Management Team

Erin Turner joined The Andersen Firm in 2002 and serves as the Director of Client Services. In addition Erin is a Florida Notary, Private Pilot and Licensed for Life, Health and Variable Annuity insurance in the state of Florida. As an approved instructor for the Florida Department of Financial Services, he frequently lectures on topics dealing with Estate Planning, Estate Settlement & Probate, Estate Litigation and Asset Protection Planning. He earned his J.D. from Nova Southeastern University and his B.S. from Flagler College. Erin is a candidate for the July 2017 Florida Bar Exam.



Rhonda Miller | Management Team

As Vice President of Operations, Rhonda Miller spends much of her time developing and evaluating how we can improve our service and what kinds of systems or processes are the most effective, ensuring our staff and our attorneys can offer the highest quality service. Rhonda graduated Cum Laude from East Tennessee University with a degree in Business Administration and went on to manage the operations of a local bank for 10 years before joining The Andersen Firm.



Angela Hooper | Management Team

Angela Hooper is the firm's Director of Professional Alliances. As the primary contact for financial advisors and clients she is the daily liaison of the organization. Providing strategic client direction and managing client expectations is an additional aspect of her position and she ensures clients receive what they need. Prior to joining the firm in 2006, her career spans nearly 20 years in the chemical industry in human resources and business development positions.. Angela received her degree from Alabama Southern College.

joke of the quarter

Jack and his buddy, Bob loaded up Jack's minivan and headed north for a ski trip. After driving for a few hours, they got caught in a terrible blizzard and pulled into a nearby farm. They asked the attractive lady who answered the door if they could spend the night.

"I realize it's terrible weather out there and I have this huge house all to myself, but I'm recently widowed," she explained. "I'm afraid the neighbors will talk if I let you stay in my house."

"Don't worry," Jack said. "We'll sleep in the barn and be gone at first light." The lady agreed, and the two men found their way to the barn and settled in for the night. Come morning, the weather had cleared, and they got on their way. They enjoyed a great weekend of skiing.

But about nine months later, Jack got an unexpected letter from an attorney. It took him a few minutes to figure it out, but he finally determined that it was from the attorney of that attractive widow he had met on the ski weekend.

He dropped in on his friend Bob and asked, "Bob, do you remember that good-looking widow from the farm we stayed at on our ski holiday up north about 9 months ago?" "Yes, I do." said Bob.

"Did you, er, happen to get up in the middle of the night, go up to the house and pay her a visit?" "Well, um, yes," Bob said, a little embarrassed about being found out, "I have to admit that I did."

"And did you happen to give her my name instead of telling her your name?" Bob's face turned beet red and he said, "Yeah, look, I'm sorry, buddy. I'm afraid I did." "Why do you ask?"

"She just died and left me everything."



Federal Estate and Gift Tax Exclusions

Most estate planning documents are drafted with the flexibility to accommodate the increased exemption amounts. However, there may be instances when clients need to update or consider additional planning.

Tax Exemption

**\$5,490,000 FEDERAL ESTATE
TAX EXEMPTION AND A 40%
TOP FEDERAL TAX RATE**

**\$5,490,00 GST TAX
EXEMPTION AND A 40% TOP
FEDERAL GST TAX RATE**

**\$5,490,000 LIFETIME GIFT
TAX EXEMPTION AND A 40%
TOP FEDERAL GIFT TAX RATE**

**\$14,000 ANNUAL GIFT TAX
EXCLUSION**

Opportunities

Clients are able to whittle down their estates to keep below the threshold and avoid the 40% federal estate tax. Clients can make larger lifetime gifts. A couple who has used their lifetime gifting now has an additional \$80,000 to work with.

There are a variety of estate planning techniques such as the Intentionally Defective Grantor Trust, in which clients may use these additional exemption amounts as seed gifts. They may choose to fund a GRAT or to shift income producing assets to children or grandchildren who may be in a lower tax bracket or live in a state with lower income tax rates, or no state tax rate at all.

Portability

Don't let the \$11 million per married couple get away. While the estate tax exclusion is portable among spouses at death, it is not automatic. The rules can be tricky. The unlimited marital deduction allows you to leave a portion or all of your assets to the surviving spouse free of federal estate tax. But to take advantage of the unused exemption, you must elect portability on the estate tax return. Therefore upon the first death, you must file an estate tax return even when no tax is due.

Most states that have a separate state estate tax (like New York, New Jersey and Connecticut) do not permit portability. If you live in one of these states, you may need provisions in your documents which could save state estate taxes upon the death of the first spouse.

GST

If you created a trust in 2016, remember to notify your accountant and direct them to elect to have your GST transfer exemption allocated, or not allocated to contributions to that trust. You must make this election even if your gifts do not exceed the annual gift tax exclusion and therefore would not require filing the gift tax return.

Additionally, it is very important to know that while the estate tax exemption is portable among spouses at death, the Generation Skipping Tax or GST is not portable.



DO IT NOW

- Make annual gifts of up to \$14,000 per beneficiary. (They won't count against your lifetime estate/gift tax.)
- Make sure your estate plan elects "portability."
- Consider techniques that benefit from low interest rates such as GRATS, sale to defective grantor trust and charitable lead annuity trusts.



THERE ARE 18 STATES PLUS THE DISTRICT OF COLUMBIA THAT IMPOSE EITHER ESTATE TAX, INHERITANCE TAX OR BOTH.

Nine of these states have made changes that with proper estate planning lessen the sting of the tax. Clients who reside or own property in any of these eighteen states should review their estate plans with an experienced estate planning attorney to determine if changes are needed to avoid any issues, even if the change is an estate tax repeal!

If you have clients who may benefit from a complimentary estate plan review, please contact The Andersen Firm at 866.230.2206.

GIFT, ESTATE, INHERITANCE & INCOME TAX BY STATE

Source: Forbes

The question your clients need to address is: HOW MUCH MONEY CAN I LEAVE MY HEIRS FREE OF STATE DEATH TAX? The answer depends on where they live, where they own property, to whom they are leaving their assets and is their estate plan up to date.

Clients who reside in New Jersey should pay close attention to how their Trusts and Wills are established. In October, New Jersey passed a law which raises the estate tax exemption from the long standing \$675,000 to \$2 million starting in 2017 and repeals the estate tax as of 2018. A common practice used to



Continued: Gift, Estate, Inheritance & Income Tax by State

address this issue is to state "I give the lower of the federal and New Jersey exemption to my children" with the remainder going to the surviving spouse.

By using this formula, children would no longer receive \$675,000, but potentially millions -- specifically \$2 million in 2017 and over \$5 million in 2018. Surviving spouses can find themselves receiving a shockingly smaller portion of the estate.

The October, New Jersey legislation also provided a positive change for non-resident property owners. The provision that imposed estate tax on the New Jersey property of nonresident decedents was eliminated.

Keep in mind the New Jersey inheritance tax is still on the books, a tax that is up to 16% on assets left to non-lineal heirs. If clients fail to plan properly, assets valued at more than \$500 left to anyone other than a parent, grandparent, spouse, child, grandchild, great-grandchild, etc., stepchild (does not include step-grandchildren) will have the tax imposed at up to 16%.

Estate plans can require changes even if they were recently established. In states where a QTIP trust is used to bridge the gap between the state tax exemption and the federal exemption should be closely reviewed.

States with an estate tax most often exempt far less from the state estate tax than the federal estate tax exemption and

impose a top rate of 16%. Like the federal system, bequests to a spouse are tax free.

Inheritance taxes as mentioned above typically only apply when you are leaving assets to more distant relatives or friends and can start with the first dollar and the top rate at 16%.

IDENTIFYING WHAT CHANGED

- **District of Columbia** - will raise estate tax exemption to \$2 million if and when revenue surplus targets are met
- **Maryland** - increased estate tax exemption to \$3 million
- **Minnesota** - increased estate tax exemption to \$1.8 million
- **New Jersey** - increased the estate tax exemption to \$2 million
- **New York** - increased estate tax exemption to \$5.25 million (April 1)
- **Delaware, Hawaii, Maine, Rhode Island and Washington** made inflation adjustments to exemption amounts



Click the paperclip to open a pdf copy of the 2017 Gift Tax, Estate Tax, Inheritance Tax & Income Tax by State Chart (or see on next pages)

Gift Tax, Estate Tax, Inheritance Tax & Income Tax by State

State	Gift Tax	Estate Tax	Inheritance Tax	Income Tax
Alabama	None	None	None	5%
Alaska	None	None	None	None
Arizona	None	None	None	4.54%
Arkansas	None	None	None	7%
California	None	None	None	13.3%
Colorado	None	None	None	4.63% ^{***}
Connecticut ^{2,3}	\$2M Exemption; Top Tax Rate 12%	\$2M Exemption; Top Tax Rate 12%	None	6.9%
Delaware	None	\$5.49M Exemption*; Top Tax Rate 16%	None	6.6%
District of Columbia	None	\$1M Exemption; Top Tax Rate 16%	None	8.5%
Florida	None	None	None	None
Georgia	None	None	None	6%
Hawaii	None	\$5.49M Exemption*; Top Tax Rate 16%	None	11%
Idaho	None	None	None	7.8%
Illinois ²	None	\$4M Exemption; Top Tax Rate 16%	None	3.75% ^{***}
Indiana	None	None	None	3.4% ^{***}
Iowa	None	None	No Exemption; Top Tax Rate 15%	8.98%
Kansas	None	None	None	6.45%
Kentucky	None	None	Up to \$1K Exemption; Top Tax Rate 16%	6%
Louisiana	None	None	None	6%
Maine ^{1,2}	None	\$5.49M Exemption*; Top Tax Rate 12%	None	8.5%
Maryland ⁴	None	\$3M Exemption; Top Tax Rate 16%	10% Tax Rate	7.5%
Massachusetts	None	\$1M Exemption; Top Tax Rate 16%	None	5.3% ^{***}
Michigan	None	None	None	4.35% ^{***}
Minnesota ⁵	None	\$1.8M Exemption; Top Tax Rate 16%	None	9.85%
Mississippi	None	None	None	5%
Missouri	None	None	None	6%
Montana	None	None	None	6.9%
Nebraska	None	None	Up to \$40K Exemption Top Tax Rate 18%	6.84%
Nevada	None	None	None	None
New Hampshire	None	None	None	5% ^{***}
New Jersey ⁶	None	\$2M Exemption; Top Tax Rate 16%	Up to \$25K Exemption; Top Tax Rate 16%	8.97%
New Mexico	None	None	None	4.9%

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Gift Tax, Estate Tax, Inheritance Tax & Income Tax by State

State	Gift Tax	Estate Tax	Inheritance Tax	Income Tax
New York ^{2,7}	None	\$5.25M Exemption; Top Tax Rate 16%	None	8.97%
North Carolina	None	None	None	7.75%
North Dakota	None	None	None	4.86%
Ohio	None	None	None	5.92%
Oklahoma	None	None	None	5.5%
Oregon ³	None	\$1M Exemption; Top Tax Rate 16%	None	11%
Pennsylvania ⁸	None	None	No Exemption; Top Tax Rate 15%	3.07% ^{**}
Rhode Island ¹	None	\$1.5M Exemption; Top Tax Rate 16%	None	9.9%
South Carolina	None	None	None	7%
South Dakota	None	None	None	None
Tennessee ²	None	None	None	6% ^{****}
Texas	None	None	None	None
Utah	None	None	None	5% ^{**}
Vermont	None	\$2.75M Exemption; Top Tax Rate 16%	None	8.95%
Virginia	None	None	None	5.75%
Washington ^{1,2}	None	\$2.054M Exemption; Top Tax Rate 20%	None	None
West Virginia	None	None	None	6.5%
Wisconsin	None	None	None	7.75%
Wyoming	None	None	None	None

¹ Exemption is indexed for inflation each year

² No portability

³ Connecticut has .5% fee on estate assets over \$2M that must be paid whether or not you use the probate court. Connecticut has a \$20M estate tax cap (would need \$170M in assets for cap to be in effect).

⁴ Maryland increases estate tax exemption in 2018 to \$4M and matches the federal estate tax exemption in 2019

⁵ Minnesota increases the estate tax exemption each year by \$200K until 2018 when it reaches \$2M

⁶ New Jersey estate tax not imposed on transfers of estates of resident decedents dying on or after 1/1/2018

⁷ New York increased the estate tax exemption on April 1, 2017 from \$4,187,500 to \$5,250,000. The exemption will continue to increase annually until it matches the federal estate tax exemption in 2019.

- Beware of the tax cliff. From 100% -105% of the exemption amount is for the excess. After 105% of the exemption amount, the entire estate is taxed.

⁸ Pennsylvania – 5% discount if paid within 3 months of death.

^{**} Follows federal exemption

^{***} State has flat income structure

^{****} State only taxes interest and dividend income, not wages

^{*****} State has flat income structure AND state only taxes interest and dividend income, not wages

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NEW YORK'S CLIFF

Source: National Law Review



In New York, the current amount of property that can pass free of New York State estate tax is \$4,187,500, however on April 1 of this year that number rises to \$5.25 million. Thanks to the Executive Budget for 2014-2015 which significantly altered New York's estate tax and will gradually increase the New York basic exclusion amount (previously \$1 million) through January 1, 2019 at which time it will match the federal exemption amount.

One of the most significant provisions in the law, however, is that New York estates valued at more than 105% of the exclusion amount will have NO exclusion amount. YES, New York estate tax will be imposed on the entire estate when the estate exceeds the exemption amount. Due to adjustments to the bracket structure in the new law, those estates that are valued at more than 105% of the New York basic exclusion amount will pay the same tax as they would have under the prior law.

For example, assume a person dies on May 1, 2017, with an estate valued at \$5.6 million. The New York basic exclusion amount will be \$5,250,000. Because the value of the estate exceeds 105% of the then available New York basic exclusion amount ($\$5,250,000 \times 105\% = \$5,512,500$), the estate will be subject to New York estate tax on the entire \$5.6 million. The New York State estate tax bill will be \$462,800, which is the same as the amount that would have been due under the old law. In contrast, if an individual had died with an estate valued at \$5.1 million, her estate would owe no New York estate tax under the new law because the New York basic exclusion amount will be applied to her estate. Under the old law, however, the decedent's estate would still have owed \$402,800 in New York estate tax.

Another significant change in New York law involves certain gifts made in a decedent's lifetime, even though New York has no gift tax. Under prior law, lifetime gifts were not subject to gift tax and were not included in the New York gross estate. Under the current law, there is a three year look back from the decedent's death and gifts made within that three years are added back, increasing the New York gross estate, and thus potentially being subject to the maximum New York estate tax rate of 16%.

NOTE: The add back does not include gifts made before April 1, 2014, on or after January 1, 2019, or gifts made during a time when the decedent was not a resident of New York State.

These changes present many estate planning opportunities for New York residents. Specifically when utilizing the bypass trusts to set aside New York's basic exclusion amount. The proper design and disposition of the basic exclusion amount is imperative for married couples to achieve significant tax savings. The basic exclusion amount is set aside at the death of the first spouse, therefore "bypassing" estate taxation at the death to the surviving spouse. This technique also allows any growth to assets in the trust to escape taxation upon the death of the second spouse. As New York's basic exclusion amount rises, the potential tax benefits from proper estate planning rise as well.

If you or your clients could use a complimentary estate plan review, please contact our office at 866.230.2206.

Valuation Discounts and Section 2704 Regulations

Source: Heckerling Institute

The most successful estate planning techniques pass significant value from one generation to the next by freezing or establishing an appreciating asset's value and shifting the asset's growth to a younger generation (a "freeze technique"), resulting in significant gift, estate and generation-skipping transfer tax savings. These freeze techniques can provide even greater transfer tax savings if the asset transferred to the younger generation is eligible for valuation discounts. Historically, such valuation discounts have been achieved by funding a family limited partnership with the appreciating asset and then gifting or selling limited partner interests to the younger generation.

Using a Family Limited Partnership (FLP) or Family LLC to obtain favorable valuation discounts on gifts or bequests has been a staple of high-net-worth estate planning for the past 15 years. While IRC Section 2704, passed in 1990, was intended to limit the aggressive use of valuation discounts, over the decades since a number of Tax Court cases, along with evolving state laws, have undermined the IRS' ability to enforce those rules.

The treasury department decided to pursue its own crackdown, in the form of newly proposed 25.2704. Beginning In September last year, we notified clients and advisors and published information on the newly proposed regulations. In particular, the Proposed Regulations seek to expand the types of interests that would be subject to Section 2704 so that taxpayers cannot receive discounts on their interests in family controlled limited liability companies ("LLCs") and other entities beyond simply family limited partnerships and closely held corporations. Additionally, the Proposed Regulations would narrow the class of restrictions that will be recognized for discount purposes by prescribing a new class of "disregarded restrictions" that apply specifically to restrictions on the ability to force the liquidation or redemption of an individual partner's interest in the partnership in certain cases. The Proposed Regulations also seek to eliminate some of the other techniques that taxpayers have utilized to continue to benefit from valuation discounts, such as giving a small interest in the entity to a non-family member (such as a charity), which currently prevents Section 2704 from applying to an intra-family transfer.

The new rules would include the imposition of a new 3-year look back to determine whether a minority valuation discount should apply (limiting deathbed transfers used to create a minority interest), the introduction of new "disregarded restrictions" that go beyond the already-ignored "applicable restrictions" in situations where the family will retain control after the transfer (and effectively create an implied put right for any recipients of a transfer, which significantly curtails most valuation discounts), and a shift away from only looking at restrictions that are "more restrictive" than available state law.

On December 1, 2016, the IRS held a much-anticipated hearing on the 2704 proposed regulations. At the hearing, numerous valuation experts, business advisors and taxpayer advocacy groups commented on potential problems and other valuation issues that would result if the 2704 proposed regulations were finalized in its current form. Also at the hearing, the Treasury Department representative confirmed they did not intend to include a "deemed put right" in the 2704 proposed regulations that would eliminate the use of all discounts when valuing transfers of business interests, and that the Treasury Department planned to clarify this when the regulations were finalized. Therefore, while it is likely that the proposed

Continued....

2704 regulations (if finalized) will still impact how family business interests are valued for gift and estate tax purposes, the impact on such valuations should not be as significant as originally feared.

It is difficult to predict what changes will be included in the final regulations, or when the 2704 proposed regulations will be finalized. The IRS must consider the comments made at the hearing and a very large number of written comments that it has received in response to the regulations. Most advisors believe the earliest the regulations could be finalized is late in the first quarter of 2017. Further, the timing of when the 2704 proposed regulations will be finalized (or whether they are finalized at all) may be impacted by the transition from the Obama administration to the new Trump administration in January 2017, including the possibility of the repeal of the estate tax under a Trump administration.

Additional news regarding the future of the 2704 proposed regulations came in the first few days of the 115th U.S. Congress (January 5, 2017). A new bills were introduced in the House and the Senate to prevent the Treasury Department and Internal Revenue Service from finalizing the 2704 proposed regulations. The House bill (H.R. 308) was introduced by Rep. Warren Davidson (R-Ohio) and referred to the House Committee on Ways and Means. This bill prohibits proposed Internal Revenue Service regulations published on August 4, 2016, relating to restrictions on liquidation of an interest with respect to estate, gift, and generation-skipping transfer taxes from taking effect. The bill prohibits funds from being used to finalize, implement, administer, or enforce the proposed regulations or any substantially similar regulations. The related Senate bill (S. 47) was introduced by Sen. Marco Rubio (R-Fla.) and referred to the Senate Finance Committee.

The most recent discussion at the Heckerling Institute in January advised that there is an immediate planning need. Charles Fox provided in his analysis that "Clients who are considering transferring interests in familycontrolled entities that are not controlling interests and do not have liquidation rights should consider making the transfers as soon as possible. It is possible, however, that if the client dies within three years of the transfer and after the date that the proposed regulations become final, the client may be caught by the final regulations. The proposed regulations would also apply to determine and measure any gift component of transfers otherwise structured as sales. Likewise, clients who have recently made transfers and die after the regulations are finalized but within three years of the transfer may be caught by the final regulations."



If you have questions on how to take advantage of these techniques or have questions on how this may affect your planning, please contact our office at 866.230.2206.

IRS Closing Letter

Internal Revenue Code Section 2010(c) allows the estate of a decedent who is survived by a spouse to elect portability. That allows the spouse to apply the pre-deceased spouse's unused exclusion to the surviving spouse's transfers during life and at death. In order for this to apply, the estate representative must elect portability of the DSUE amount by timely filing the Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return..

Assuming a Form 706 was **required** to be filed, an executor/personal representative typically waits for the issuance of an estate tax closing letter before making final distributions and closing the estate administration process. Also, it is advisable that an executor obtain a closing letter to protect him/herself against potential liability for any taxes the IRS eventually determines are unpaid.

Prior to June 1, 2015, the IRS issued an estate tax closing letter for every estate tax return filed. However, for estate tax returns filed on or after June 1, 2015, the IRS changed its policy and now will issue an estate tax closing letter only at the request of an estate. Such a request is to be made at least four months after the filing of the estate tax return.

The IRS claims that the number of estate tax returns being filed has dramatically increased as many estates are filing these returns for the sole purpose of making a portability election.

On January 6, 2017 the IRS released an advance version of Notice 2017-12 which provides that—for purposes of determining if an IRS examination of an estate tax return has been completed—an IRS account transcript can substitute for an IRS estate tax closing letter on IRS Letter 627. The notice clarifies that an IRS account transcript is a substitute for an estate tax closing letter and is available at no charge. Estates and their authorized representatives can request an account transcript (in lieu of an estate tax closing letter) by filing Form 4506-T, Request for Transcript of Tax Return. Although account transcripts for estate tax returns are not currently available through the IRS's online Transcript Delivery System, the IRS website will have current information should an automated method become operational. To allow time for processing the estate tax return, requests should be made no earlier than four months after filing the estate tax return.

For those who wish to continue to receive estate tax closing letters, estates and their authorized representatives may call the IRS.

PRESIDENT TRUMP'S

ESTATE TAX PLANS
BURNING QUESTIONS
AND WHAT WILL NOT
CHANGE



THE ONLY THINGS CERTAIN IN LIFE ARE DEATH AND TAXES

President Trump has promised to introduce a tax overhaul plan that includes estate tax repeal. At this time it is more than difficult to determine what the specific provisions might be and neither Trump nor Republican lawmakers have disclosed when such a repeal might take effect, if the gift tax will continue to exist or what the capital gains might look like.

This brings to mind many questions that many feel must be addressed before the repeal can become a reality.

1. Will Repeal Occur? And if so, will it be permanent?

The June House GOP agenda calls for repeal, like Trump's plan during his campaign.

However, to pass through the Senate, Republicans need 60 votes. This may be difficult as Republicans hold 52 of the 100 seats in the Senate.

Reconciliation is a procedural pathway that would allow Republicans to push the change through, but that route comes with strings and is only possible if it includes another 10 year sunset provision.

2. Will There Be a Gift Tax?

Trump and the House have both been silent in regards to gift tax. Even if the gift tax is retained, there is no certainty regarding what the rate or exemption amount might be.

3. Capital Gains at Death?

Under Trump's proposed plan capital gains held until death and valued over \$10 million would be subject to tax to exempt small businesses and family farms. The House blueprint does not include this detail and

Trump's plan did not specify if the \$10 million exemption is per person, per family or per couple. If there is a capital gains tax, it was not clarified if it would be due upon the death of the decedent or when the beneficiaries dispose of the assets.

4. Will Basis Step-Up Go Away?

There is total uncertainty and confusion about how or if a step-up in basis would apply under a capital gains system.

Because Trump proposed a \$10 million exemption we do not know if a step-up in basis would apply to the first \$10 million.

5. Special Rule for Businesses, Farms?

Trump's campaign proposal said that capital gains held until death and valued over \$10 million "will be subject to tax to exempt small businesses and family farms." It is not clear whether Trump meant to apply the \$10 million exemption only to small businesses and family farms or if it also includes taxpayers who have marketable securities and cash.

6. Does the Charity 'Abuse' Provision Stick?

The Trump proposal states "To prevent abuse, contributions of appreciated assets into a private charity established by the decedent or the decedent's relatives will be disallowed." If there is no estate tax, one could assume he meant disallowed for the income tax deduction. However, you do not typically get an income tax deduction for transfers at death in any event.

Regardless of these potential new laws, The Andersen Firm is making sure clients are prepared. In 2017, federal and gift taxes are an issue for estates (including life insurance not in a Crummey Trust) valued over \$5.49 million per individual or \$10.98 million per couple.

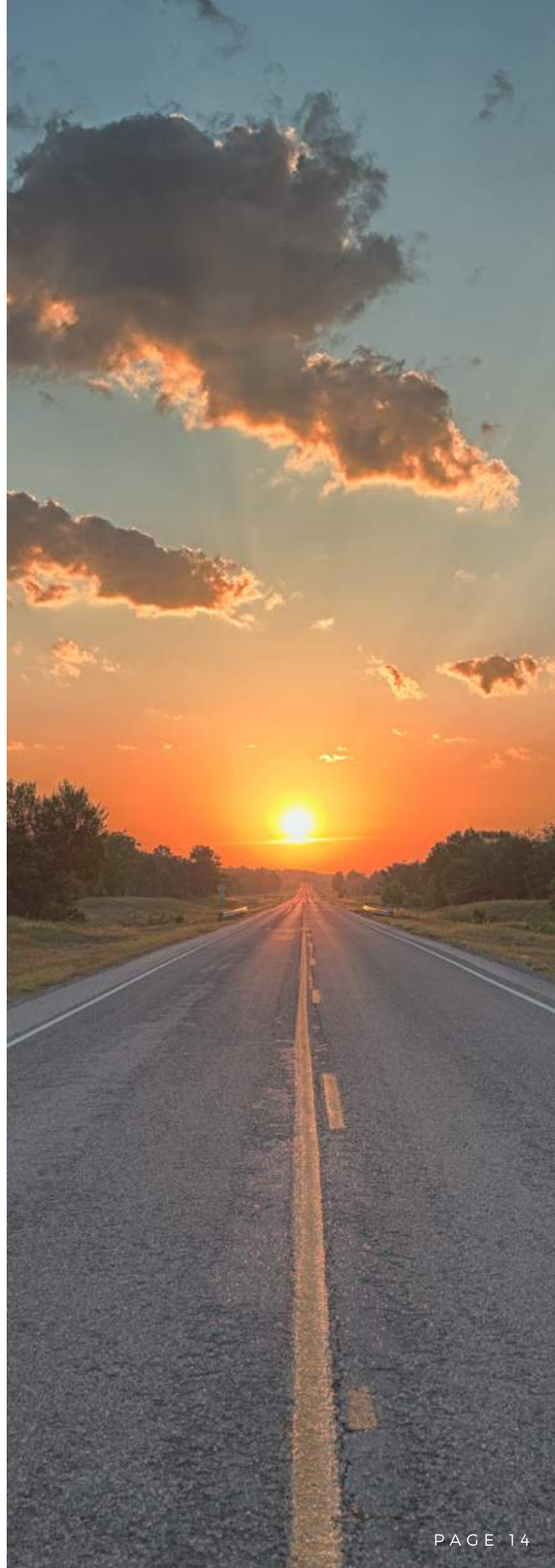
The probate process after death is not going away. Therefore planning for wills, trusts, medical directives and powers of attorney still need to be done. Planning for minor children, businesses and out of state property ownership all still need to be addressed.

In addition, clients still need planning for beneficiary designations, retirement plans and specialized trusts because IRAs/401Ks will continue to be needed for non-spouse beneficiary asset protection purposes, as well as to protect the interest of minors.

Finally, there will still be a need for protecting assets, income tax planning and proper reporting (especially for foreign assets). Therefore, a significant amount of planning will not change regardless of the administration.



If you have clients who may benefit from a complimentary estate plan review, please contact The Andersen Firm at 866.230.2206.



PRACTICE AREAS

ESTATE PLANNING

At The Andersen Firm we have planned for a vast array of estates ranging in size from a few hundred thousand dollars to a hundred million dollars and up, all the while realizing each specific case is different and requires specialized attention.

ESTATE SETTLEMENT & PROBATE

The process of settling an estate can be difficult and emotionally painful for the family and loved ones of the deceased. It is our goal at The Andersen Firm to ensure that the process be handled with compassion, expedience, professionalism, and expertise, while protecting the rights of all parties involved. If the circumstances surrounding a client's estate require probate, our attorneys offer extensive experience in handling the processes and legalities involved.

ASSET PROTECTION

For some, putting an Asset Protection Plan in place is advisable in order to attempt to remove the economic incentive to be sued and also to try and increase the ability to force an early settlement in the event a suit is filed.

LITIGATION

Our attorneys are skilled at handling cases involving estate and trust disputes, civil litigation, commercial litigation and real estate litigation. Our attorneys draw on a thorough knowledge base of the specific procedures surrounding these issues. The Andersen Firm can efficiently take each case through to completion. Whether you are an individual or a business, defendant or plaintiff, our extensive experience affords our clients the benefit of our counsel.

REAL ESTATE

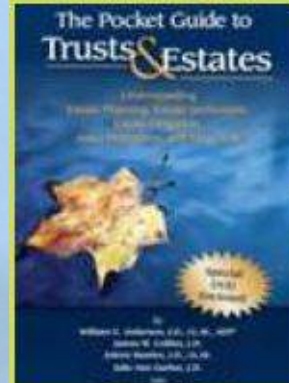
Our attorneys possess the expertise of being able to draft and review any manner of contract relating to real estate, including but not limited to purchase and sale contracts and addenda, leases with options to purchase, stock purchase agreements, joint venture agreements, mergers and acquisitions, and business purchase agreements.

The Pocket Guide to Trusts and Estates

Bill Andersen and Joleen Searles with Erin Turner and Jerry Saresky have released

their collaborative book *The Pocket Guide to Trusts & Estates:*

Understanding Estate Planning, Estate Settlement, Estate Litigation and Asset Protection.



COMMENTS: If you have questions about The Andersen Firm's practice areas, need assistance with continuing education, client seminars, would like to request a copy of *The Pocket Guide*, or have a question or suggestion about our website, Angela Hooper is our Director of Professional Alliances.

Angela welcomes your calls and may be reached at 954.527.8807 or by email at AHooper@TheAndersenFirm.com.



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*Thank you for taking
the time to review
this edition.*



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