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### I. Reflection of the Month

“Don’t go around saying the world owes you a living. The world owes you nothing. It was here first.” - Mark Twain

When you are young your mom and dad may give you a lot of things. As you grow older you may have a sort of entitlement. You may feel like the world should just give you what you want or that it owes you something.

This belief can cause a lot of anger and frustration in your life. Because the world may not give you what you expect it to. On the other hand, this can be liberating too. You

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realize that it is up to you to shape your own life and for you to work towards what you want. You are not a kid anymore, waiting for your parents or the world to give you something.

You are in the driver's seat now. And you can go pretty much wherever you want.

## **II. On the Lighter Side**

A ship was sunk in the Pacific Ocean. There were only 3 survivors: a doctor, a priest and a lawyer. They managed to make it to the life boat but the oars weren't there. As they began searching the waters surrounding them they noticed a great number of shark fins circling the dislodged oars. They sat there for a while debating on who was to swim for the oars. The doctor replied, "I certainly can't. If the person going for the oars is attacked, I'll be needed to give them medical attention". The priest exclaimed, "Well I certainly can't go as if the person going for the oars dies, I'll be needed to give last rights". The two turned to the lawyer, who just jumped out of the boat and started swimming to the oars. As the lawyer neared the oars, the sharks swam away. The lawyer grabbed the oars and returned to the life boat. As he climbed aboard, the sharks returned. The doctor and priest looked on him with awe. The lawyer shrugged and said, "professional courtesy".

## **III. Update on Same Sex Court Rulings: Florida and Tennessee**

### **FLORIDA**

On August 21, 2014, U.S. District Court Judge Robert Hinkle ruled against Florida's constitutional amendment banning marriage equality, making the Sunshine State the latest to see such a ban struck down in federal court since the U.S. Supreme Court handed down its historic marriage rulings last June. In *Brenner v. Scott*, the private attorneys sued the state on behalf of same-sex couples who argue that Florida's ban on marriage equality violates the U.S. Constitution. In his ruling, Judge Hinkle wrote, "Liberty, tolerance, and respect are not zero-sum concepts. Those who enter opposite-sex marriages are harmed not at all when others, including these plaintiffs, are given the liberty to choose their own life partners and are shown the respect that comes with formal marriage. Tolerating views with which one disagrees is a hallmark of civilized society." Judge Hinkle stayed his ruling while the case is on appeal, but ordered the state to immediately recognize the marriage of a woman whose wife passed away and wishes to be listed as the legal spouse on her deceased wife's death certificate.

There are over 70 court cases challenging discriminatory marriage bans across the country in 30 of the 31 states where such a ban exists, plus Puerto Rico. Cases from eleven states are currently pending before five federal appeals courts. The Sixth Circuit holds the distinction of being the only federal appeals court to date that will consider marriage cases from all states within its jurisdiction. In total, 33 states either have marriage equality or have

seen state marriage bans struck down as unconstitutional in court. Since the Supreme Court's historic marriage rulings last year, there have been 21 consecutive federal court decisions that bans on marriage equality are unconstitutional. These rulings have come from judges appointed by both Democrat and Republican presidents.

Gallup puts support for marriage equality at 55 percent – an astonishing 15 points increase from just 5 years ago – with other polls showing support at even higher margins. And support for same-sex marriage rights continues to grow in virtually every demographic group. According to ABC News / Washington Post, 77 percent of adults under age 30 favor marriage equality. 40 percent of Republicans – an all-time high and jump of 16 points in under two years – now support marriage for gay and lesbian couples, while the number of Catholics supporting marriage has grown to 62 percent, according to the New York Times. These numbers continue to grow, with no indication that support will slow down.

Same-sex couples can legally marry in nineteen states and the District of Columbia, while 31 states have a law or constitutional amendment restricting marriage to the union of one man and one woman. Learn more about this and other marriage equality cases at [www.americansformarriageequality.org](http://www.americansformarriageequality.org).

## TENNESSEE

**BREAKING:** For the first time since the Supreme Court's DOMA decision, a court has ruled that the constitution does not protect a gay couples' right to marry.

Roane County Circuit Judge Russell E. Simmons Jr. (right) ruled that the state has a rational interest in Tennessee's same-sex marriage ban and therefore it does not violate the Constitution's equal protection clause.

Judge Simmons: *“Marriage simply cannot be divorced from its traditional procreative purposes... the promotion of family continuity and stability is certainly a legitimate state interest. There is nothing irrational about limiting the institution of marriage for the purpose for which it was created, by embracing its traditional definition. To conclude otherwise is to impose one's own view of what a State ought to do on the subject of same-sex marriage.”*

Judge Simmons' decision, is a direct contradiction of almost thirty court decisions, that have found there is a constitutional right to same-sex marriage, including two by federal appeals courts. It may be all the division the Supreme Court needs to weigh in sooner, rather than wait for the all the states to wade through the challenges to their marriage bans.

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#### **IV. The Real Reason We Yawn – By Jonathan D. Rockoff**

Researchers are starting to unravel the mystery surrounding one of the most common behaviors: the yawn. Jonathan Rockoff and evolutionary psychologist Dr. Andrew Gallup explain reasons behind the yawn on Lunch Break with Tanya Rivero.

Yawning can be a problem at the office for Lindsay Eierman.

"I've explained, 'I'm sorry, I didn't get much sleep last night,' " says Ms. Eierman, a 26-year-old social worker from Durham, N.C.

But a lack of sleep may not be the problem.

Researchers are starting to unravel the mystery surrounding the yawn, one of the most common and often embarrassing behaviors. Yawning, they have discovered, is much more complicated than previously thought. Although all yawns look the same, they appear to have many different causes and to serve a variety of functions.

Yawning is believed to be a means to keep our brains alert in times of stress. Contagious yawning appears to have evolved in many animal species as a way to protect family and friends, by keeping everyone in the group vigilant. Changes in brain chemistry trigger yawns, which typically last about six seconds and often occur in clusters.

"What this tells us is it's a very complicated system, and there are probably many different roles for yawning," says Gregory Collins, a researcher at the University of Texas Health

Science Center in San Antonio who has identified some of the chemical processes at work in the brain.

There are many misconceptions about yawning, which was long believed to be the body's way of correcting for a dearth of oxygen. Our tendency to yawn when other people yawn has long been incorrectly explained as primarily an expression of a person's empathy.

To unravel the mystery of yawning, scientists built upon early, observed clues. Yawning tends to occur more in summer. Most people yawn upon seeing someone else do it, but infants and people with autism or schizophrenia aren't so affected by this contagion effect. And certain people yawn at surprising times, like parachutists who are about to jump out of a plane or Olympic athletes getting ready to compete.

"There was probably some yawning soccer players in Brazil" before World Cup games, says Robert R. Provine, a neuroscientist at the University of Maryland, in Baltimore County.

To get to the bottom of yawning, scientists have performed dozens of experiments on groups of people and animals, including baboons and parakeets. Yawning is one of the animal kingdom's great unifiers. It seems almost any creature with a backbone does it.

A leading hypothesis is that yawning plays an important role in keeping the brain at its cool, optimal working temperature. The brain is particularly sensitive to overheating, according to Andrew Gallup, an assistant professor of psychology at the State University of New York at Oneonta. Reaction

times slow and memory wanes when the brain's temperature varies even less than a degree from the ideal 98.6 degrees Fahrenheit.

Dr. Gallup studied the impact of yawning on brain temperature by implanting probes in the brains of rats. In a 2010 study published in the journal *Frontiers in Evolutionary Neuroscience*, Dr. Gallup and fellow researchers showed that yawning was triggered after a rapid but subtle rise in the animals' brain temperature of approximately 0.1 degree Celsius, equivalent to about 0.18 degree Fahrenheit. The temperature fell after the rats finished yawning.

Dr. Gallup says he expects the human brain is similarly sensitive. The deep inhalation of colder air lowers the brain's temperature by cooling blood that eventually makes its way to the brain.

Further support for the brain-cooling theory of yawning came from a study involving 120 people in Vienna. The study, published online in April in the journal *Physiology & Behavior*, found a greater number of participants yawned more in the summer than in winter.

Stress and anxiety also cause our brains to get hotter, and yawning helps it cool and function at maximum efficiency, Dr. Gallup said. This could explain why certain people who wouldn't be expected to yawn, like parachutists about to jump out of a plane or a person about to make a public speech, have been observed to yawn frequently, he said.

In a paper published in the online journal *PLoS One* in March, Liz Cirulli, an assistant professor of genetics at Duke University School of Medicine, and other researchers

ruled out several popular hypotheses about contagious yawning, including that it was primarily an expression of empathy.

Yawning can be observed in newborns.

The Duke researchers played for 328 study subjects a short video showing people yawning. About two-thirds of the participants yawned in response. Conventional explanations such as tiredness or empathy, were measured based on responses to questionnaires, and they couldn't fully explain the contagious yawning. The strongest predictor was a participant's age, but even that played only a small role.

"I'm hoping that means there is something genetic with the yawn response," says Dr. Cirulli, who is looking for a variation in a gene or set of genes that might explain why many people contagiously yawn.

Contagious yawning may also have a social function, to help ensure that in a group everyone's brain is alert, says Dr. Gallup, of the State University of New York. In a 2012 study published in the *Journal of Comparative Psychology*, Dr. Gallup and fellow researchers compared yawning among groups of four parakeets, some of which were startled by a loud noise. Yawning became more contagious in groups jolted by the noise but not in the others.

Dr. Gallup theorizes contagious yawning may be a method for promoting "group vigilance" against potential predators or other threats. Other research on chimpanzees, bonobos and baboons suggests contagious yawning is more common among family and friends than among strangers, Dr. Gallup said.

Researchers have identified some of the chemical changes in the brain that help trigger yawns. In a 2005 paper published in the *Journal of Pharmacology and Experimental Therapeutics*, Dr. Collins, of the University of Texas, and fellow researchers identified two types of brain receptors that turn yawning on and off. The receptors, which play a role in the brain's message traffic, work with a chemical called dopamine. Dopamine levels are highest early in the day, giving a plausible explanation for why people yawn after waking up, he said.

Several studies have shown other receptors responsible for yawning, Dr. Collins said, including ones that respond to opioids. This could explain why heroin addicts yawn a lot while trying to escape their habit, said Dr. Collins, who specializes in addiction research.

Although studies show we yawn more when tired, it isn't clear why. Dr. Gallup points to brain temperature, which is highest at night. Dr. Provine said yawning may usher a change of states, such as from sleeping to waking, though the physiological details are still being worked out.

There are some practical applications. Dr. Gallup said managers might want to keep in mind the brain-cooling role of yawning when a meeting is long and boring. "One way to diminish yawning frequency in an office would be to keep it air-conditioned. If it's very cold in the room, yawning rates are going to be quite low," Dr. Gallup said.

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## **V. How to Handle IRS Notices** by Robert Hoberman

**Is this your situation?** Just when you thought tax season was over, you receive a notice from the IRS. Don't panic -- you're not alone. The IRS sends millions of notices and letters out each year. Many are computer-generated, because these days, the IRS relies less on employees to get directly involved in issues including collections. Many state and local governments are following suit and sending out more notices to taxpayers.

Some IRS notices inform taxpayers about an impending audit. In 2013, the IRS sent 1.4 million audit notices. The chances that you'll be audited vary, depending on the types of income and deductions reported, as well as your income level. For example, the IRS audited less than 1 percent of personal tax returns with income under \$200,000, compared to more than 10 percent of personal returns with income of more than \$1 million.

In most cases, you can address the audit issue with relative ease, especially if you rely on a tax professional to represent your position. Although the IRS still conducts audits and face-to-face audits, its compliance strategy has shifted. Today, the IRS conducts more "correspondence" audits than "field" audits. In fiscal 2013, there were 1,060,779 correspondence audits and 344,152 field audits. By comparison, the IRS conducted 625,021 correspondence audits and 567,759 field audits in fiscal 1998.

In other words, you're much more likely to get a letter in the mail than meet with an IRS auditor. Typically, a correspondence audit is

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limited to one or two items on a return. These matters can often be resolved by mailing the IRS copies of receipts, checks or other records requested.

**Note:** Tax notices are sent to mailboxes through the U.S. Postal Service. The IRS never contacts taxpayers via telephone, e-mail, text message or social media to ask for personal or financial information. An IRS solicitation in any format other than a letter sent through the U.S. Postal Service could be a ploy to steal your personal information or access your financial records.

Making IRS notices clear and efficient is one of the agency's top priorities. Starting in 2010, the IRS began redesigning notices to look less like legal documents. The language is generally easier to understand than in the past, but it's natural to worry when you receive a notice. If you receive a notice and want more information about how to respond, contact your tax adviser right away.

### **More Notices, Fewer Agents**

The IRS ramped up its collection efforts after a 2001 study revealed that a \$345 billion "tax gap" existed between the amount owed by taxpayers and the amount the IRS actually collected. The study pinpointed a complex and ever-changing tax code that is ripe for abuse.

IRS enforcement staffing levels have decreased in recent years. In 2013, there were roughly 14 percent fewer enforcement officers and agents than in 2010. Many IRS notices are computer-generated. In fact, when you open a notice from the IRS, you might be the first human being to read it.

Many notices are routine and can be resolved with a few simple steps. For example, you may need to file an additional tax form. The IRS may have been unable to make a direct deposit for your refund and, instead, is sending a refund check. Or you might have missed a small amount of interest from a bank account. With more than 100 types of federal tax notices (see "Common IRS Notices," below), the possibilities for IRS inquiry are endless.

### **Case in Point: CP2000 Notices**

One of the most common IRS notices is CP2000, a notice of proposed adjustment for underpayment or overpayment. Receiving one isn't always bad news -- some of these notices even propose a refund.

Here's what happens behind the scenes. IRS computers compare information reported by employers, banks, businesses and other payers on Forms W-2, 1098, and 1099 with personal information, income and deductions you report on your income tax return. If you fail to report any income, payments, or credits (or if you overstate certain deductions) on an income tax return, you may receive a CP2000 notice. It is not a bill. It informs you of the proposed adjustments to income, payments, credits or deductions. This may result in additional tax owed or a refund of taxes paid.

The IRS also compares personal information, such as the names, addresses and Social Security numbers of you, your spouse and your dependents. Inconsistencies between personal information on Forms W-2, 1098, and 1099, and your personal tax return also could result in an IRS notice.

A CP2000 notice will show the amounts you reported on your original or amended return, the amounts reported to the IRS by the payer, and the proposed adjustments by the IRS. The notice also provides the name of the payer, the payer's ID number, the type of document that was issued (such as a W-2 or 1099), and the tax identification number of the person to whom the document was issued. Based on payer documentation, the notice proposes either an increase or decrease in your tax liability. Be sure that you review this information carefully to verify its accuracy.

These notices are typically computer-generated and may be erroneous. For example, one client received a CP2000 notice because her 1099-INT didn't match up with information reported on her tax return. The 1099-INT used the bank's full name. The tax return used an abbreviated variation of the bank's name. The IRS computer didn't know the banks were one in the same.

If you end up owing additional federal taxes after receiving a CP2000, consider the possibility that you may also owe additional state and local taxes.

### **Handling Your Notice**

The IRS recently issued tips on how to handle notices. Here are some important points to bear in mind:

▶ **Follow directions.** Each notice relates to a specific issue and instructs you about what to do. If the notice requires a response, only address the specific questions the letter asks. If you have other tax issues you'd like to discuss with the IRS, send a separate letter.

If you agree with the notice, you usually don't need to reply unless it gives you other instructions or you need to make a payment. Pay close attention to the proper mailing address for your response and deadlines. Always keep copies of any correspondence with the IRS. You may need to refer to it later.

Ignoring an IRS response will not make it go away. Generally, if you receive a notice that you owe additional taxes, the IRS perceives failure to respond as admission of underpayment, starting the collections process.

▶ **Pay promptly to minimize interest charges and penalties.** You will be sent a bill from the IRS, if you owe additional taxes. Pay balances due to the IRS promptly, because interest and penalties quickly add up. Interest will be charged on any unpaid tax from the due date of the return until the date of payment. The interest rate is determined quarterly and equals the federal short-term rate plus 3 percent. Interest compounds daily.

If you file a return but don't pay all amounts shown as due on time, you will generally have to pay a late payment penalty of 0.5 percent for each month (or part of a month) up to a maximum of 25 percent, on the amount of tax that remains unpaid from the due date of the return until the tax is paid in full. The 0.5 percent rate increases to 1 percent if the tax remains unpaid 10 days after the IRS issues a notice of intent to levy. For individuals who file by the return due date, the 0.5 percent rate decreases to 0.25 percent for any month in which an installment agreement is in effect.

If you owe tax and don't file on time, the total failure to file penalty is usually 5 percent of the tax owed for each month (or part of a



month) that your return is late, up to five months. If your return is more than 60 days late, the minimum penalty for late filing is the lesser of \$135 or 100 percent of the tax owed.

The penalties for filing and paying late may be abated if you have reasonable cause and the failure was not due to willful neglect. In addition, making a late payment as soon as you are able may help to establish that your initial failure to pay was due to reasonable cause and not willful neglect. Generally, interest charges are not abated; they continue to accrue until all assessed tax, penalties, and interest are paid in full.

► **Consult with your tax professional.**

Taxpayers may be able to rectify minor IRS issues, such as an inaccurate address, account number or Social Security number. But other notices are better left to a tax professional. Response forms typically allow you to authorize someone other than yourself to contact the IRS concerning notices. Never hesitate to contact your tax adviser if you're uncertain about how to handle a letter from the IRS.

## **VI. Just the Facts on Tax**

### **2014 State Death Tax Exemption and Top Tax Rate Chart**

As of January 1, 2014, 19 states and the District of Columbia collect a state death tax. If you have not received our chart that lists which states collect state estate taxes and/or state inheritance taxes along with the 2014 exemption and top death tax rate, call 866.230.2206 and we will have one sent to you.

**Changes Are Coming to Rhode Island Estate Taxes in 2015:** On the heels of changes made in Maryland and New York, Rhode Island is the latest state to tweak its state estate tax laws. Currently Rhode Island has the second lowest state estate tax exemption.

**Changes Made to Maryland Estate Tax Laws Beginning in 2015:** On May 15, 2014, Maryland Governor Martin O'Malley signed H.B. 739, Maryland Estate Tax - Unified Credit, into law. This new law, which repeals and then re-enacts Maryland's state estate tax, makes several significant changes.

**Changes to the New York Estate Tax Exemption Between 2014 and 2019:** Effective April 1, 2014, significant changes were made to the laws governing New York estate taxes. As we reported last month, First and foremost, the state estate tax exemption more than doubled from \$1,000,000 to \$2,062,500. In addition, the state estate tax exemption will continue to increase on an annual basis until it matches the federal estate tax exemption in 2019.

## **VII. Insurance: 3 Minute Course on Small Captives** by Larry Kendzior

Small captives are an extremely complex area. This "short course" is designed to assess whether you might want to explore this area further.

### **What seems to be the main benefit of a small captive insurance company?**

The IRS rules let a business get a \$1.2 million tax deduction EACH YEAR for insurance

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premiums paid to a small captive. This \$ is tax free to the small captive (a “C” Corporation).

**Which businesses may benefit from a captive?**

\$20 million of gross receipts  
\$ 2 million of taxable income  
Positive cash flow

**In addition to tax write offs, what are the main benefits of a small captive?**

Improve existing insurance coverage  
Owner gets to keep the insurance company’s profits.  
Save money on insurance premiums. Perhaps up to \$300,000 a year.

**You said the captive is a “C” corporation. How does an owner get at the money “trapped” in the captive?**

Dividends  
Loan it out  
Gift it (estate and gift tax planning)

## VIII. Q & A Corner

**Continuing Education Requirements:**

The Andersen Firm is required to post all attendees for a CE session within 3 weeks of completion of the workshop. Please confirm your CE throughout the year as we are unable to back-date attendee participation.

**Florida**

The 5-hour law and ethics update course is a new CE requirement for all license types except Title. The goal of the course is to make our Florida licensees more aware of existing

law, recent legislative changes and to standardize the delivery of this content. The new requirement replaces the Ethics, Law and Policy, Premium Discount Mitigation and Senior Suitability requirements. Every licensee (except Title) with a CE compliance cycle that ends this October or later must complete an appropriate 5-hour course each compliance cycle. Once October rolls around, the old requirements will no longer exist.

The Andersen Firm will offer this 5 hour mandatory course.

**New Jersey**

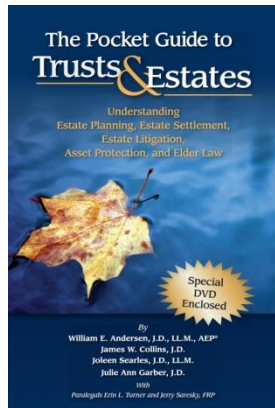
**Joint Tenants Property / Step Up in Basis:**

If husband, for example, dies owning property jointly or TBE with spouse, ½ of that property gets a step up to date of death value. This is for a *separate property* jurisdiction like Florida. The only twist to recall on this is that if a spouse dies in one of the ten *community property* states, the asset gets a FULL step up to date of death value, both halves.

## VIV. The Pocket Guide to Trusts and Estates

Bill Andersen, Joleen Searles, Julie Ann Garber and Jim Collins with Erin Turner and Jerry Saresky have released their collaborative book *The Pocket Guide to Trusts & Estates: Understanding Estate Planning, Estate Settlement, Estate Litigation, Asset Protection and Elder Law*. If you have not already received your complimentary copy,

call Pat Bowman today at 866.230.2206 and she will send you your personal copy. Books can be purchased on Amazon.com as well.



## X. Estate Planning With a Non-Citizen Spouse - By Bill Bischoff

These days, it is not uncommon for U.S. citizens who live in this country to be married to non-citizen spouses who also live

here. Or two non-citizens may get married while living here. In tax lingo, non-citizens who are permanent U.S. residents are termed resident aliens. Unfortunately, standard estate tax planning advice that works for most married couples will not necessarily work when one or both spouses are resident aliens. Here's what you need to know if this is your situation.

**Federal estate tax basics:** In general, American citizens and resident aliens alike are covered by the same set of federal estate tax rules. If you die in 2014 with a taxable estate worth over \$5.34 million, the IRS wants 40% of the excess.

Thankfully, the federal estate tax can often be minimized or avoided with advance planning. The most common drill is to bequeath (give away at death) some of your assets to your children and grandchildren (either directly or via trust arrangements) while bequeathing the remainder to your surviving spouse.

For example, say you are a married American citizen or a resident alien with an estate worth \$7 million. You can completely avoid the federal estate tax by bequeathing \$5.34 million to your children and bequeathing the remaining \$1.66 million to your surviving spouse—as long as your spouse is a U.S. citizen. In fact, you can bequeath an unlimited amount to your spouse federal-estate-tax-free if he or she is a citizen.

Alternatively, you can gift away an unlimited amount to your spouse before you die—provided he or she is a U.S. citizen—without any federal gift tax bill.

This privilege of being able to make these unlimited tax-free wealth transfers to your spouse is called the unlimited marital deduction. Taking advantage of this privilege is the key element of most estate and gift tax planning strategies.

**The potential problem with a non-citizen spouse:** Unfortunately when your spouse is not a U.S. citizen, the unlimited marital deduction privilege is unavailable. That is true regardless of whether or not you yourself are an American citizen. Going back to the preceding example, let's say that you pass away this year and bequeath \$5.34 million to your children and the remaining \$1.66 million to your non-citizen spouse. The amount going to your kids is federal-estate-tax-free thanks to

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your \$5.34 million federal estate tax exemption. But there's no shelter for the amount going to your non-citizen spouse. So the federal estate tax hit is \$664,000 (40% x \$1.66 million). Ouch! If you bequeath your entire \$7 million estate to your non-citizen spouse, the federal estate tax bill is the same \$664,000, because the first \$5.34 million is sheltered by your federal estate tax exemption while the remaining \$1.66 million is unsheltered and taxed at 40%. Ouch again! This is bad news if you've been (wrongly) assuming that you qualify for the unlimited marital deduction privilege.

**What to do:** There are several ways to get around the non-citizen spouse estate-tax dilemma. Here are some tax-saving moves to consider.

First, you can make sure you marry an American citizen. This is a potential solution if you are currently single, but obviously not very practical if you are already married to a non-citizen.

Second, your spouse can become a citizen. That can take place after you've died but by no later than the due date for filing the federal estate tax return for your estate (the deadline is generally nine months after your death). As long as your spouse attains citizen status before the deadline, the unlimited marital deduction deal is available, which means your spouse can be left an unlimited amount free of any federal estate tax hit. However, your spouse may not want to become a U.S. citizen for various reasons. For example becoming an American citizen might require renouncing one's home country citizenship, which could affect the right to own property in that country.

Another idea is to gradually reduce your taxable estate by making substantial gifts to your non-citizen spouse while you are still alive. Such gifts are eligible for a larger-than-normal annual exclusion. For example, the exclusion for 2014 is \$145,000 (compared with the standard \$14,000 exclusion for 2014 gifts to other folks). By taking advantage of the larger-than-normal annual exclusion, you can gradually transfer wealth to your non-citizen spouse without incurring any federal gift tax and at the same time whittle your taxable estate down to the point where it will be sheltered by your federal estate tax exclusion (\$5.34 million for 2014).

A fourth potential solution involves setting up a qualified domestic trust (QDOT). The QDOT can be formed under the terms of your will, by the executor of your estate after you have passed on, or by your surviving spouse. Basically the assets inherited by your spouse go into the QDOT. Then the federal estate tax on the value of those assets is deferred until your spouse takes money out of the QDOT or dies. At that point, the QDOT assets are added back to your estate for tax purposes, and the deferred federal estate tax bill comes due. In other words, the QDOT arrangement only defers the federal estate tax hit. It doesn't reduce the amount that ultimately must be paid to the U.S. Treasury. However, if your surviving spouse becomes a citizen, he or she can then take all the assets in the QDOT, and the deferred tax bill will go up in smoke. In effect, your spouse is treated as if he or she had been a citizen all along.

**The bottom line:** The non-citizen spouse estate tax threat can potentially affect many well-off couples. Thankfully, the threat can often be mostly or completely disarmed with

advance planning. You may need assistance from an experienced estate planning pro to get the job done right.

**COMMENTS:** The Andersen Firm is available to assist clients, Financial Advisors and other financial professionals in comprehensive estate planning. Call Angela Christian or Shannon Jones at 866.230.2206 to organize a time that works for your schedule.

## **XI. What's Almost as Certain as Death? Not Talking About the Inheritance** by New York Times Paul Sullivan

If there is a boogeyman when it comes to family conversations about inheritance, it is not death. That happens whether people talk about financial plans or not. It's the \$40 trillion that financial advisers say their baby boomer clients are going to pass to their children either in an orderly way — or in a chaotic mess.

A report by UBS on why families should talk about inheritance confirms the reluctance of people to talk about death and money.

It's easier to have a will (83 percent of respondents have one) than discuss the will with your children (about half have) and harder still to tell them what the assets are (34 percent of respondents have).

Wealthy and less wealthy people are equally bad at talking about their plans with their children. (Fifty-five percent of people with

more than \$1 million talk to their children about an inheritance, while 53 percent of people with less than \$1 million do.)

And most parents want the transfer of money to their children to go smoothly (84 percent), without creating bad feelings among siblings (66 percent.)

Martin Halbfinger, a private wealth manager at UBS Wealth Management, said clients typically didn't talk about inheritance with their children for four reasons. They don't want to confront dying. They are uncomfortable disclosing financial matters to their children. They don't want their children to know how much they're going to receive, lest it curb their motivation. And they are concerned about their heirs' financial acumen.

Of course, the logic of all four excuses is easily refuted. But there is a bigger issue making the conversation about inheritance more angst-ridden than it was for previous generations.

“We just lived through an incredible era of wealth accumulation that is going to turn into one of the biggest topics out there today, which is how much money is going to be passed on from parents to heirs,” said Mr. Halbfinger, who has been a financial adviser for 37 years. “The generation before the baby boomers never dreamed how much money they could have accumulated. Now there is a critical need to plan more properly.”

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Like other areas of life in which there is strong data that should be dictating our behavior — like cigarette smoking, global warming and baseball statistics — people know what they should do but still struggle mightily to do it.

Here are some lessons on some of the more common problems that arise when conversations about inheritances do not go as smoothly as they might.

**SIBLING NEGOTIATIONS** Getting parents to discuss inheritance plans is surely difficult; getting them to put a plan in place that will not cause years of fighting among their children can be even more challenging.

Janet, 58, who is retired and lives outside of Boulder, Colo., said her older sister marshaled their parents to make plans for their six children, one of whom has special needs. The process has taken eight years and her parents, who are in their 80s, are still not finished.

“Neither one of my parents is college-educated,” said Janet, who asked that her last name not be used to protect her relationship with her siblings. “They’re smart people, but they’ve never been trained in financial matters. It took a while for them to understand it.”

She said the estate was valued at about \$3 million and her parents chose to divide it equally among the six siblings. This sounds fair but it’s not the best way to do it, she said. She and the sister who initiated the conversation do not need their share; her

brother with the medical problem needs more than one-sixth to pay for the lifelong support system he needs. She is the executor for his special needs trust.

“Recently the conversation came up that instead of giving him merely one-sixth of the liquidated assets in cash, why don’t you give him one house and one-sixth of the remaining assets,” she said. “My parents kind of liked that idea because they’re concerned about him having a roof over his head. But I anticipate that if that comes to fruition there could be some disagreement among the other siblings.”

Janet said some of her family members felt little sympathy for this brother and wanted their full share of their parents’ money.

“People will be upset about it, but we can hide behind the codification of their wishes,” she said. “If they decide to give him an unequal share in the form of a house, my other sister and I will just hide behind what they want. We can say we’ve disagreed with them for 40 years,” she said, referring to her parents.

While this sentiment doesn’t evoke tender feelings, there is a pragmatism to it that works. The parents have put their wishes down on paper, and there will be no surprises when they die and their children receive their shares.

**TOUGH DEAL** Fighting among children is always unpleasant for parents. But when what children might fight over is something that cannot be split, a resolution becomes

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more challenging. A prime example is a memory-packed vacation home.

Sheri Rothenberg, a 70-year-old lawyer in Chicago, said she and her husband started talking to their two children, both in their 30s, about their plans a few years ago.

“Both of our children are very attached to our summer cottage in Sawyer, Mich.,” she said. “It was still very important to them even though my daughter lives in Los Angeles and my son is in Washington, D.C. They have wonderful memories of it.”

But she knew only one of them could get it.

The daughter, who works for a firm that does risk management for hedge funds, will get the cottage, Mrs. Rothenberg said, because “she’ll always have more money than my son and houses need maintenance.”

Her son, who runs a small think tank, will get two rental properties of similar economic, but no sentimental, value. “It was an easy choice and he understood it, I think,” she said, adding that there was another practical reason for the choice. “My son’s wife is highly allergic to many things and the summer cottage is surrounded by trees of all sorts.” At least with this family, there will be no surprises. “One of my goals is not to leave a mess of anything,” she said.

**SILENT TREATMENT** Joshua Burke, 28, of Brooklyn, said he could never imagine asking his parents, who live in San Diego, about their estate plans.

“Both sets of my grandparents have passed away in the last five years and the inheritances were handled by my parents,” he said. “I was not in the loop on that. I haven’t spoken to my parents about inheritance.”

Nor does he plan to do so. “My father has told me they have a plan in place,” Mr. Burke said. “I trust that my father is not lying to me.”

A potential heir’s reluctance to ask for more detail is common and understandable. “They don’t want to be perceived as greedy,” said Paula Polito, chief client officer at UBS. But she had words of encouragement for reluctant parents: “If you focus on your death, you’re not going to want to have this conversation. If you focus on my kids having peace of mind, it’s different.”

For Beverly Hicks, 65, disclosing everything to her executor was essential — even though she is divorced and has no children or siblings. It comes from her experience with the estate of her mother, who died in 2003. It took Ms. Hicks, who lives in Antioch, Tenn., nearly two years to get her mother’s estate settled, even though it was modest and her mother had told her where everything was.

When her stepfather died, decades earlier, he left everything to her mother, but Ms. Hicks learned that no one had changed the titling of the assets since then, from certificates of deposit to ownership of their home.

“I had to go to court three times to get it handled,” she said. “I had to run an ad in the newspaper. I had to take copies of the will to the bank to get the CDs straightened out.”

This was not what she had imagined happening, since her mother had been so open. “I thought truly that if anything ever happened I would know where everything was and it would be handled,” she said. “One detail can make the biggest difference in the world.”

**COMMENTS:** The Andersen Firm is available to assist clients, Financial Advisors and other financial professionals in multigenerational estate planning and many of the issues surrounding working with a clients family. Call Angela Christian or Shannon Jones at 866.230.2206 to organize a time to speak with a knowledgeable attorney that works for your schedule.

## **XII. Flowcharts – Explaining Estate Planning to Your Clients**

Many of our financial advisors have requested flowcharts to explain Estate Planning to their clients. They are available for you to download directly from our website at TheAndersenFirm.com. Call us if you have questions or need our assistance in working with you and your clients.

1. Foundational Planning: The Basics
2. IRA Inheritance Trust: Planning For Qualified Money
3. Qualified Personal Residence Trust: Getting The Value of Your Homes Out of Your Estate

4. Irrevocable Life Insurance Trust: How To Hold Insurance

5. Build Up Equity Retirement Trust: Spousal Gifting Trust

6. Legacy Trusts: Gifting To Children and Grandchildren and Others

7. Grantor Deemed Owner Trust: How To Hold Large Insurance Policies

8. Wyoming Close LLC: For Asset Protection and Gifting

9. Wyoming Domestic Asset Protection Trust: The Best Domestic Asset Protection Available

10. Florida Domicile Checklist

11. Multigenerational Planning

## **XIV. The Andersen Firm Areas of Practice**

### **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, all the while realizing each specific case is different and requires specialized attention.

### **Estate Settlement**

- 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,



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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.

#### **Estate Litigation**

- Our lawyers are not only skilled at handling cases involving estate and trust disputes, they draw on a thorough knowledge base of the specific procedures surrounding these issues. The Andersen Firm can efficiently take each case through to completion realizing that full blown litigation often can be avoided if we work diligently to come to resolution.

#### **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.

#### **Elder Law**

- The three major categories that make up elder law are (1) Estate planning and administration; (2) Medicaid, disability and other long-term care issues; and (3) Guardianship, conservatorship and commitment matters, including fiduciary administration.

### **XVII. Estate Litigation**

Estate attorneys at The Andersen Firm represent beneficiaries, trustees and personal representatives in various jurisdictions dealing with estate litigation and probate litigation matters. A will contest challenges the admission of a will to probate or seeks to revoke the probate of a will that is already pending before the probate court. A similar

type of estate litigation can take place contesting the terms of a trust. The most common causes of action in both will contests and estate litigation can be found at [www.TheAndersenFirm.com](http://www.TheAndersenFirm.com) or call us at 866.230.2206.

### **XVIII. Mail Away Estate Plans**

If a client is in another state, unable to travel, on vacation, a snowbird or another situation that would prevent them from meeting with an attorney in person, The Andersen Firm attorneys are able to design, draft and execute estate plans via telephone conference and mail away documents.

