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Financial Advisor Current Events Update
January / February 2015

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I. Reflection of the Month

Don't focus so much on making yourself feel good.

"The best way to cheer yourself up is to try to cheer somebody else up."

This may be a bit of a counter-intuitive tip. But one of the best ways to feel good about yourself is to make someone else feel good or to help them in some way.

This is a great way to look at things to create an upward spiral of positivity and exchange of value between people. You help someone and both of you feel good. The person you helped feels inclined to give you a hand later on since people tend to want to reciprocate. And so the both of you are feeling good and helping each other.

Those positive feelings are contagious to other people and so you may end up making them feel good too. And the help you received from your friend may inspire you to go and help another friend. And so the upward spiral grows and continues.

II. On the Lighter Side

The IRS suspected a fishing boat owner wasn't paying proper wages to his deckhand and sent an agent to investigate him.

IRS AUDITOR: "I need a list of your employees and how much you pay them".

BOAT OWNER: "Well, there's Clarence, my deckhand. He's been with me for 3 years. I pay him $1,000 a week plus free room and board. Then there's the mentally challenged guy. He works about 18 hours every day and does about 90% of the work around here. He makes about $10 per week, pays his own room and board, and I buy him a bottle of Bacardi rum and a dozen Budweisers every Saturday night so he can cope with life. He also gets to sleep with my wife occasionally".

IRS AUDITOR: "That's the guy I want to talk to - the mentally challenged one".

BOAT OWNER: "That would be me. What would you like to know"?

III. Why & How of Using Trust Protectors

Florida court just issued its first decision confirming the use of trust protectors. The trust protector was William Andersen and the matter was litigated by the Andersen Firm.

Article below posted by Juan Antunez, Will and Trust Contests, Will Construction Litigation

Minassian v. Rachins, — So.3d —-, 2014 WL 6775269 (Fla. 4th DCA December 03, 2014)

In what could be a ground breaking decision, for the very first time we now have a Florida appellate court explicitly sanctioning the use of trust protectors in a domestic trust proceeding. Historically, trust protectors were a standard feature in offshore trusts, but rarely used domestically. Times are changing. Over the last few years there's been a trend towards wider use of trust protectors in domestic trusts, and this 4th DCA opinion may go a long way towards accelerating that trend.

In this case the authority for resolving any ambiguities in the trust agreement was shifted from the courts to the trust protector, thereby

effectively *privatizing* the dispute-resolution process. As readers of this blog know, I'm all for privatizing inheritance litigation whenever possible. The tool I've pointed to in the past for getting that job done is mandatory arbitration. We now have another court-sanctioned tool that's potentially even more powerful: a trust protector authorized to resolve trust-construction ambiguities by amending or terminating the trust after the settlor's death.

Case Study:

In this case the settlor named his estate planning attorney (i.e., the professional with most knowledge regarding his testamentary intent) as his trust protector. According to the estate planning attorney, his client had very specific intentions regarding how his trust should be administered after his death for the benefit of his wife, and he also expected his children might be less than thrilled with his plans (especially one estranged daughter). 4th DCA:

The trust protector testified in a deposition that he met with the husband twice, first in person to discuss his estate planning desires, and second over the phone to discuss and execute the documents he had drafted. During the husband's life, the husband and wife's "lives revolved around horse racing and legal gambling," and, in the trust, the husband wanted "to provide for [the wife] in the way they had lived in the past…." . . . The trust protector also stated, "This challenge by the children is exactly what [the husband] expected." The trust protector noted that the husband referred to his daughter in derogatory terms, and that the daughter had not seen her father in years.

When husband died, the litigation he feared (and wisely planned for) materialized in the form a lawsuit filed by his children against his wife (the trust's sole trustee) alleging she'd breached her fiduciary duties as trustee by improperly administering the trust. Both sides filed summary judgment motions claiming the trust agreement supported their side of the case. When the trial court ruled against wife, she triggered the trust protector clause to simply re-write the trust agreement in a way that favored her litigation position (effectively doing an end run around the trial court's adverse ruling). 4th DCA:

In the midst of litigation in which the trustee of a family trust was being sued for accountings and breach of fiduciary duty, the trustee appointed a "trust protector," as allowed by the terms of the trust, to modify the trust's provisions. These modifications were *unfavorable to the litigation position* of the beneficiaries, and they filed a supplemental complaint to declare the trust protector's modifications invalid.

And here's how the 4th DCA summarized the operative trust-protector clause:

After the trial court denied the motion, the wife appointed a "trust protector" pursuant to Article 16, Section 18 of the trust. This section authorizes the wife, after the husband's death, to appoint a trust protector "to protect … the interests of the beneficiaries as the Trust Protector deems, in its sole and absolute discretion, to be in accordance with my intentions…." The trust protector is empowered to modify or amend the trust provisions to, inter

alia: (1) "correct ambiguities that might otherwise require court construction"; or (2) "correct a drafting error that defeats my intent, as determined by the Trust Protector in its sole and absolute discretion, following the guidelines provided in this Agreement[.]" The trust protector can act without court authorization under certain circumstances. The trust directs the trust protector, prior to amending the trust, to "determine my intent and consider the interests of current and future beneficiaries as a whole," and to amend "only if the amendment will either benefit the beneficiaries as a group (even though particular beneficiaries may thereby be disadvantaged), or further my probable wishes in an appropriate way." The trust provided that "any exercise … of the powers and discretions granted to the Trust Protector shall be in the sole and absolute discretion of the Trust Protector, and shall be binding and conclusive on all persons."

After wife pulled the trigger on the trust-protector clause, plaintiffs cried foul, and the trial court agreed with them, overriding the trust protector's actions. Wrong answer says the 4th DCA. Here's why:

1. trust protectors are authorized by Florida law;
2. the powers granted to the trust protector in this case are authorized by Florida law; and
3. the settlor's intent to use a trust protector (instead of our courts) to resolve this dispute works under Florida law.

Each of these points is a big deal for Florida trusts and estates attorneys (be it as planners or litigators). What makes the 4th DCA's analysis so useful to working lawyers is its heavy reliance on Florida's existing Trust Code, which means we now have a statutory road map — blessed by an appellate court — for using trust protectors in Florida trust agreements. You'll want to hold on to this opinion.

Trust Protector — OK? 4th DCA: YES:

The Florida Trust Code provides: "The terms of a trust may confer on a trustee *or other person a power to direct the modification or termination of the trust*." § 736.0808(3), Fla. Stat. (2008) (emphasis added). This section was adopted from the Uniform Trust Code, which contains identical language in section 808(c). *See* Unif. Trust Code § 808 (2000). The commentary to this section states:

Subsections (b)-(d) ratify the use of *trust protectors* and advisers…. Subsection (c) is similar to *Restatement (Third) of Trusts* Section 64(2) (Tentative Draft No. 3, approved 2001)…. "*Trust protector*," a term largely associated with offshore trust practice, is more recent and usually connotes the grant of greater powers, sometimes including the power to amend or terminate the trust. Subsection (c) [as enacted in section 736.0808(3), Florida Statutes] ratifies the recent trend to grant third persons such broader powers….

The provisions of this section may be altered in the terms of the trust. *See* Section 105. A settlor can provide that the trustee must accept the decision of the power holder without question.

Or a settler could provide that the holder of the power is not to be held to the standards of a fiduciary….

Id. at Editors' Notes (emphasis supplied). *See generally* Peter B. Tiernan, *Evaluate and Draft Helpful Trust Protector Provisions*, 38 ESTATE PLANNING 24 (July 2011).

Trust Amendment — OK? 4th DCA: YES:

The children make two arguments as to the inapplicability of section 736.0808(3). First, they contend that this provision conflicts with "the black letter common law rule … that a trustee may not delegate discretionary powers to another." Second, they argue that sections 736.0410–736.04115 and 736.0412, Florida Statutes, provide the exclusive means of modifying a trust under the Florida Trust Code. We reject both arguments.

As to the conflict with the common law, which precludes non-delegation of a trustee's discretionary powers, this argument fails for two reasons. First, it is not the trustee that is delegating a duty in this case, but the settlor of the trust, who delegates his power to modify to a third person for specific reasons. Second, "The common law of trusts and principles of equity supplement [the Florida Trust Code], *except to the extent modified by this code* or another law of this state." § 736.0106, Fla. Stat. (2008) (emphasis added); *see also* Abraham Mora, et al., 12 FLA. PRAC., ESTATE PLANNING § 6:1 (2013–14 ed.) ("The common law of trusts supplements the Florida Trust Code unless it contradicts the Florida Trust Code or any other Florida law."). Thus, section 736.0808, Florida Statutes, supplements common law, and to the extent the common law conflicts with it, it overrides common law principles.

Sections 736.0410–736.04115 and 736.0412, Florida Statutes, provide means of modifying a trust under the Florida Trust Code. The children argue the terms of the trust cannot prevail over these provisions, so as to add a method of modification via trust protector, because section 736.0105 provides, "The terms of a trust prevail over any provision of this code except … [t]he ability to modify a trust under s. 736.0412, except as provided in s. 736.0412(4)(b)." § 736.0105(2)(k), Fla. Stat. (2008). Yet section 736.0808(3), Florida Statutes, expressly allows a trust to confer the power to direct modification of the trust on persons other than trustees. "[A] court must consider the plain language of the statute, give effect to all statutory provisions, and construe related provisions in harmony with one another." *Hechtman v. Nations Title Ins. of New York*, 840 So.2d 993, 996 (Fla.2003). These provisions of Chapter 736 can be harmonized by concluding that the sections on modifying trusts do not provide the exclusive means to do so, at least insofar as a trust document grants a trust protector the power to do so. Otherwise, section 736.0808(3) would have no effect. Therefore, we conclude that the Florida Statutes do permit the appointment of a trust protector to modify the terms of the trust.

Privatizing dispute-resolution process — OK? 4th DCA: YES:

It was the settlor's intent that, where his trust was ambiguous or imperfectly drafted, the use of a trust protector would be his preferred method of resolving those issues. *Removing that*

authority from the trust protector and assigning it to a court violates the intent of the settlor.
We therefore reverse the partial final judgment of the trial court and remand with directions that the trust protector's amendments are valid. We reject all other arguments made by the children against the validity of these provisions, although not ruling on any matters beyond that issue.

Lesson learned?

The overwhelming majority of trusts established in international financial centers include trust-protector clauses. Domestically, this tool has yet to gain much traction (trust protectors aren't even mentioned in Florida's Trust Code). I predict competitive market forces are going to change all that. If I'm right, we can expect to see more and more trust protectors in our domestic trust agreements, and cases like this one — providing a detailed statutory road map for their use — are going to pave the way for that change.

IV. Legislation Watch - Estate planning strategies under attack in recent budget proposals

By Ted Smith and Joyce Crivellari, UBS Financial Services

The Obama Administration's 2015 budget contained several proposals addressing estate and gift tax planning that were carried over from the 2014 proposals. Taxpayers considering any of the strategies discussed below should continue to monitor legislative developments that may ultimately impact the use and effectiveness of these strategies.

Gift or sale to an intentionally defective grantor trust

Many irrevocable trusts created during life are structured as "grantor trusts," meaning that the trust is ignored for income tax purposes and the grantor continues to report all items of income and deduction related to the trust on his or her individual income tax return. This allows the trust principal to grow more rapidly since trust principal is not consumed to pay income taxes. Although this is in effect an additional gift to the trust each year, it is not treated as such for tax purposes. The goal is to allow appreciation on the transferred assets to accrue to the benefit of trust beneficiaries without additional transfer tax.

The Obama administration's proposed changes to the grantor trust rules, initially set out in 2014, were significant, and they have been carried forward to 2015. If adopted, any assets sold to an intentionally defective grantor trust, less the consideration received by the grantor, would be includible in the grantor's estate. All transfer taxes would be payable by the trust. The proposal would apply to any trusts that engage in a described transaction after the enactment date, so this strategy is still possible for now, but may not be in the future. The 2015 proposal does clarify that any irrevocable trust that holds only life insurance on the life of the grantor and/or the grantor's spouse (and no significant other assets) would not be affected by this proposal.

Multi-generational trusts

Wealthy families often take advantage of the GST exemption by establishing long-term multi-

generational trusts, referred to as "dynasty trusts." If properly structured, this type of trust avoids gift and estate tax at each generation and can continue for the benefit of multiple generations. A number of states now permit trusts to last for hundreds of years, and some even permit perpetual trusts that can theoretically last forever.

Once again, the Administration has proposed to limit the duration of dynasty trusts. While any trust created before the law is enacted would maintain its GST exemption, any GST exemption allocated to a new trust, or to additions made to an existing trust, would expire 90 years from the allocation. This proposal makes the creation of a dynasty trust even more urgent for clients interested in multi-generational planning. By making a gift to a multi-generational trust in 2014, and allocating your GST exemption to that trust, you can protect the trust assets against federal transfer tax for generations to come.

Grantor Retained Annuity Trusts

The Grantor Retained Annuity Trust (GRAT) is a widely used technique that continues to be scrutinized. Typically, a grantor creates a GRAT by transferring assets to an irrevocable trust for the benefit of children and retains an annuity interest for a term of years. The transfer is considered a gift to the children equal to the fair market value of the transferred property, less the value of the grantor's retained annuity at the time the GRAT is funded. Many GRATs are structured to have a short (e.g., two-year) term and to be "zeroed out," which means that the value of the retained annuity is set to equal the value of the property transferred, resulting in no gift when the GRAT is established. The short term increases the possibility that the grantor will outlive the term (if not, many of the GRAT's intended benefits are lost).

The Obama administration's 2014 and 2015 proposals include restrictions on the ability to use certain short-term GRATs in the future. The proposal would require: 1) a 10-year minimum term for GRATs; 2) a remainder interest, valued at inception, to be greater than zero—thereby eliminating the use of "zeroed-out" GRATs (i.e., ones that do not generate a taxable gift); and 3) other limitations to address payment structures and terms that the IRS believes to unfairly limit potential transfer tax payable.

Family limited partnerships

If appropriate, consider discussing with your attorney or tax advisor whether to establish a family limited partnership or family limited liability company. Families set up these types of entities in order to provide for the consolidation of investments, centralization and succession of management, protection of assets from claims of creditors, and transfer of wealth to family members. In addition, families often include these entities as part of their wealth transfer planning, since the value of an interest in such an entity for gift tax purposes often is reduced (as compared to the value of its underlying assets) due to restrictions on the ownership of the interest.

In prior years, the Obama administration proposed limits on the availability of valuation discounts for transfers made between related parties by ignoring certain restrictions. It did not

do so in the 2014 and 2015 budget proposals. Despite the lack of attention to this strategy in the budget proposal, there continues to be some level of speculation that the IRS intends to use its regulatory authority to implement similar limitations, although there is nothing concrete pending at the moment.

Consequently, you may consider making transfers of interests in family-owned entities sooner rather than later, while appropriate valuation discounts still may apply. Note that the value of interests in assets like these should be determined by a qualified appraiser after consideration of all relevant factors.

V. Supreme Court denies State's stay to deny same-sex couples to marry

by Allen Marszalek , MGN Online

On December 19, 2014, the United States Supreme Court denied the State of Florida's motion for a stay of an August federal court ruling that overturned the state's ban on marriage for same-sex couples. The order means the stay expires at the end of the day on January 5. Same-sex couples will be free to marry in Florida once the stay in the ruling is lifted.

On August 21, US District Court Judge Robert Hinkle ruled in favor of the freedom to marry and respect for marriages legally performed between same-sex couples in other states in the federal marriage cases, Brenner v. Scott and Grimsley and Albu v. Scott, brought by the ACLU of Florida, SAVE and private counsel.

Daniel Tilley of the ACLU of Florida emphasized that now clerks across the entire state have a duty to marry couples. "The Supreme Court has spoken, and we expect clerks to begin marrying couples who will finally get access to the protections their families deserve."

The District Court placed a hold on the decision to allow time for an appeal, but the stay is scheduled to expire on January 5. On December 3, the U.S. Court of Appeals for the 11th Circuit denied the State of Florida's request for an extension of that stay, allowing same-sex couples to marry, even as the appeal in the case proceeded.

In response to the United States Supreme Court's decision in the case before the 11th Circuit Court of Appeals, Attorney General Pam Bondi issued the following statement.

"Tonight, the United States Supreme Court denied the State's request for a stay in the case before the 11th Circuit Court of Appeals. Regardless of the ruling it has always been our goal to have uniformity throughout Florida until the final resolution of the numerous challenges to the voter-approved constitutional amendment on marriage. Nonetheless, the Supreme Court has now spoken, and the stay will end on January 5."

ARE SAME SEX COUPLES TAKING ADVANTAGE OF THE MARITAL DEDUCTION?

Same-sex couples who are married or plan to marry should review and revise their estate planning documents to take advantage of the unlimited marital deduction from federal estate and gift tax for transfers between same-sex spouses that is now available, as existing estate planning documents may have been drafted before the unlimited marital deduction was available for same-sex married couples. Accordingly, married same-sex couples may wish to modify their estate planning documents to provide that any assets included in their estates in excess of their applicable exclusion amounts will pass to their surviving spouse, either outright or in a properly structured marital trust for the spouse's benefit, thus deferring all federal estate taxes until the death of the surviving spouse. Documents that refer to a "spouse" should be sure to define that term to refer to marriages that were valid where celebrated, so that if the couple moves to a nonrecognition jurisdiction, the claim cannot be made that the survivor is not a spouse under local law and therefore not a spouse under the documents.

VI. Top 10 States with the Highest Taxes

Benjamin Franklin once wrote, "In this world nothing can be said to be certain, except death and taxes." If you're like most Americans, paying Uncle Sam is your largest financial burden. In fact, the nation as a whole doesn't earn enough money to pay its total tax bill for the year until mid-April. Making matters worse for some individuals, taxes can vary significantly between states.

WalletHub recently analyzed how state and local tax rates compare to the national median in all 50 states as well as the District of Columbia. The purpose was to determine which states pay the highest and lowest tax rates, and to see how each state stacks up against the national median. This comparison was based on nine different types of taxation: real estate taxes, state and local income taxes, vehicle property taxes, vehicle sales taxes, sales and use taxes, fuel taxes, alcohol taxes, food taxes, and telecom taxes. Taxpayers in the states with the highest taxes pay four times more than those in the states with the lowest taxes. Below are the 10 states with the highest state and local taxes, according to WalletHub.

10. Maine

- Average Annual State and Local Taxes: $8,622
- Difference from National Average: 24 percent
- Adjusted Rank by Cost of Living: 43

9. Iowa

- Average Annual State and Local Taxes: $8,788
- Difference from National Average: 26 percent
- Adjusted Rank by Cost of Living: 33

8. New Jersey

- Average Annual State and Local Taxes: $8,830
- Difference from National Average: 27 percent
- Adjusted Rank by Cost of Living: 47

7. Vermont

- Average Annual State and Local Taxes: $8,838
- Difference from National Average: 27 percent
- Adjusted Rank by Cost of Living: 45

6. Wisconsin

- Average Annual State and Local Taxes: $8,975
- Difference from National Average: 29 percent
- Adjusted Rank by Cost of Living: 39

5. Illinois

- Average Annual State and Local Taxes: $9,006
- Difference from National Average: 29 percent
- Adjusted Rank by Cost of Living: 38

4. Connecticut

- Average Annual State and Local Taxes: $9,099
- Difference from National Average: 31 percent
- Adjusted Rank by Cost of Living: 49

3. Nebraska

- Average Annual State and Local Taxes: $9,450
- Difference from National Average: 36 percent
- Adjusted Rank by Cost of Living: 37

2. California

- Average Annual State and Local Taxes: $9,509
- Difference from National Average: 36 percent
- Adjusted Rank by Cost of Living: 50

1. New York

- Average Annual State and Local Taxes: $9,718
- Difference from National Average: 39 percent
- Adjusted Rank by Cost of Living: 51

VII. See How the Gift Tax Annual Exclusion Has Changed from 1997 to 2015

By Julie Garber, About.com

The amount that is annually exempted from federal gift taxes, called the **annual gift tax exclusion** or simply **annual exclusion**, was indexed for inflation beginning in 1997 and has slowly increased over the years. Below is a chart that shows the increases in the annual gift tax exclusion from 1997 through 2015.

As you can see, the annual exclusion remained steady for the past several years but did increase in 2013. Where the amount will go in 2016 and beyond depends on inflation, and, as the chart indicates, it can only be increased in increments of $1,000.

Historical Annual Exclusion Gift Amounts

Year	Annual Exclusion Amount		Year	Annual Exclusion Amount
1997	$10,000		2007	$12,000
1998	$10,000		2008	$12,000
1999	$10,000		2009	$13,000
2000	$10,000		2010	$13,000
2001	$10,000		2011	$13,000
2002	$11,000		2012	$13,000
2003	$11,000		2013	$14,000
2004	$11,000		2014	$14,000
2005	$11,000		2015	$14,000
2006	$12,000			

VIII. Federal Gift Tax Exemptions - Annual Gift Tax Exclusion or Lifetime Gift Tax Exemption?

By Julie Garber, About.com

Some confusion stems from the fact that there are in fact two "exclusions" or "exemptions" that apply to federal gift taxes, one that can only be used on an annual basis and the other which can be spread out over a person's entire lifetime. The former is commonly referred to as the "annual gift tax exclusion" and the other is commonly referred to as the "lifetime gift tax exemption."

What is the Annual Gift Tax Exclusion?

With regard to U.S. gift taxes, the **annual gift tax exclusion** is the amount that can be given away by an individual in any given year to an unlimited number of people free from any federal gift tax consequences at all. In other words, a once a year gift or even a series of gifts made to the same person during the course of one calendar year that do not exceed the annual gift tax exclusion are not really considered gifts at all. Instead, they are considered as "freebies" when it comes to federal gift taxes. For 2012 the annual gift tax exclusion was $13,000, and it increased to $14,000 in 2013 and will remain at $14,000 in 2014.

For example, you could give $5,000 to your daughter in January 2014, another $5,000 in June 2014, and then another $4,000 in December 2014, and since the total amount of gifts made to your daughter during the 2014 calendar year only equals $14,000, the "gifts" to your daughter will actually not be considered gifts at all for federal gift tax purposes. You can also give your son a car worth $14,000 in 2014, each of your grandchildren stocks worth a total of $14,000 each in 2014, and your best friend a diamond ring worth $14,000 in 2014, and, again, each and every "gift" will actually not be considered a gift at all for federal gift tax purposes.

What is the Lifetime Gift Tax Exemption?

In contrast, with regard to U.S. gift taxes, the **lifetime gift tax exemption** is the total amount that can be given away by an individual over his or her entire lifetime to any number of people that will be free from gift taxes, but the amount gifted will in turn reduce the amount that can be given away by the individual at death free from U.S. federal estate taxes. In other words, the lifetime gift tax exemption is tied directly to the federal estate tax exemption so that if you gift away any amount of your lifetime gift tax exemption, then this amount will be subtracted from your estate tax exemption when you die.

Under the provisions of the American Taxpayer Act of 2013 (or ATRA for short), the lifetime gift tax exemption will equal the federal estate tax exemption and will be indexed for inflation in future years. Thus, while the lifetime gift tax and estate tax exemptions were each $5,120,000 in 2012, the exemptions increased to $5,250,000 in 2013 and increased to $5,340,000 on January 1, 2014.

Confused? Don't be. An example will help to explain the concept: If an individual gives away $3,000,000 during his or her lifetime and then individual dies in December 2014, then the individual's federal estate tax exemption will only be $2,340,000. In other words, $3,000,000

in lifetime gifts is subtracted from the 2014 federal estate tax exemption of $5,340,000, which only leaves $2,340,000 of the exemption.

What Happens if You Make a Taxable Gift?

What happens if during the course of 2014 you make a total of $120,000 in gifts to your daughter? Then you will have made a taxable gift to your daughter equal to $106,000:

$120,000 in gifts reduced by the $14,000 annual gift exclusion equals $106,000 in taxable gifts.

In turn, the $106,000 in taxable gifts will reduce your 2014 $5,340,000 lifetime gift tax exemption down to $5,234,000:

$5,340,000 lifetime gift tax exemption reduced by $106,000 in taxable gifts equals $5,234,000 of lifetime gift tax exemption remaining.

Taxable gifts must be reported to the IRS on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. The return is due on the same date as your personal income tax return, meaning on April 15 of the year after the year in which the taxable gifts are made.

Special Gift Tax Rules

Aside from annual exclusion gifts and the lifetime gift tax exemption, there are some special U.S. gift tax rules that you need to be aware of, including some types of gifts that are not considered gifts at all (meaning they are true "freebies"), rules that apply to gifts made by a U.S. citizen to a spouse who is not a U.S. citizen, and the unlimited marital deduction which applies to gifts made by a U.S. citizen to a spouse who is also a U.S. citizen:

The Bottom Line On Taxable Gifts

What is the bottom line when it comes to making gifts? If you are not sure if you are about to make a taxable gift, then consult with your accountant or estate planning attorney to be sure so that you are not surprised by the gift tax consequences after the fact. Or, if you are not sure if you have already made a taxable gift that should be reported to the IRS, then consult with your accountant or estate planning attorney to determine if and when you need to file IRS Form 709.

IX. The United States Supreme Court Decision is Stripping Asset Protection from IRA's and 401k's

US Supreme Court Holds in Clark v. Remeker *That Inherited IRAs Are Not Protected in Bankruptcy*

In a significant, unanimous decision, the US Supreme Court held that inherited IRAs are not "retirement funds" under the federal bankruptcy law. Thus, inherited IRAs are subject to the claims of the new IRA beneficiary's creditors. The Court found a distinction between money set aside for the original owner's retirement and money inherited by a designated beneficiary.

WE RECOMMEND THE IRA INHERITANCE TRUST:

The IRA Inheritance Trust is simply a trust that acts as beneficiary of a client's IRAs and other company retirement plans.

A significant benefit of the IRA Inheritance Trust is enhanced protection. Protection against a beneficiary's bad spending habits, divorce, lawsuits, creditors, bankruptcy, and loss of government benefits.

Another benefit is the "Stretchout." Stretchout of the required minimum distributions for the beneficiaries – – which can result in substantial long-term, tax-free compounding and much-needed additional retirement funds for later in life.

X. Selecting a Third-Party Trustee

Every trust is required to have a trustee. The most common trust is a revocable living trust where the individual and their spouse serve as trustees.

Upon death, however, the revocable trust becomes an irrevocable trust for the surviving spouse and beneficiaries. There are many other types of irrevocable trusts such as irrevocable life insurance trusts, legacy trusts and build up equity retirement trusts for gifting to spouses as a few examples.

The issue is who will serve as trustee. Will it be a beneficiary, a friend or family member or an independent third party. In those cases where it is desirable to choose an independent third party trustee, there are many fine institutional trustees available.

There are, however, some trusts that very few trustees want to handle. Examples of these include unfunded irrevocable life insurance trusts and domestic asset protection trusts. In cases such as these, The Andersen Firm is available to serve as trustee for both revocable and irrevocable trusts.

Trustees must have the skills to handle the technical matters that arise, including taxation, trust administration and asset management. They also need to be able to serve the lifespan of the trust, which could span generations. Furthermore, these actions must be done according to the specific document provisions and laws governing your trust.

Deciding on a corporate trustee can reduce possible personal conflicts within your family or among beneficiaries while ensuring the continuity of oversight for the life of your trust.

Benefits of Hiring a Corporate Trustee

- Avoid conflicts of interest
- Confidentiality of sensitive family financial information
- Independent & objective plan advice
- Regulatory & compliance reporting
- Ease of overall administration
- Providing consolidated asset & income statements
- Processing receipts & disbursements
- Preparing required tax forms

XI. 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.

ATTORNEYS AT LAW
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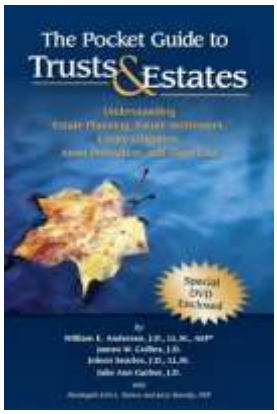
XII. The Pocket Guide to Trusts and Estates

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



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 client's family. Call Fergie Ferguson, Angela Christian or Shannon Jones at 866.230.2206 to organize a time to speak with a knowledgeable attorney that works for your schedule.

XIII. 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

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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, 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.

XV. 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 or call us at 866.230.2206.

XVI. 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.

XVII. Meet your Client Services Coordinators!

A few names you have heard around The Andersen Firm are **Shannon Ferguson "Fergie"** and **Shannon Jones**. Both are available to assist clients and financial advisors with scheduling needs. The following is a brief introduction:

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Shannon Ferguson or more affectionately known as **"Fergie"** is your contact for any scheduling needs for Bill Andersen and Erin Turner. Fergie is located in our Fort Lauderdale office.

Fergie has lived in South Florida all her life. During this time, she has taken on the role of President and Board Member for several local youth sports organizations. In these roles she has been responsible for organizing and directing over 2,000 children and their families within these youth programs. Fergie also managed a flag football league for special needs children, coordinating directly with the NFL. Through her efforts, she was able to work with Sports Illustrated Kids for the cover photo honoring these special children as Sports Team of the Year. Shannon is a Certified Fitness Nutritionist and worked as a Personal Trainer for over nine years. As an Alumni for the Miami Dolphins Cheerleaders, she assists in coordinating Alumni reunions, events and appearances and can be found working as a Miami Dolphins Cheerleader Ambassador on game day for the Miami Dolphins. Fergie enjoys working directly with the public and establishing new relationships, this is her favorite part of her job at The Andersen Firm. She has a son that attends FSU and a daughter entering college next year. Her children are her pride and joy.

Shannon Jones is your contact for any scheduling needs for Jim Collins and Joleen Searles. Shannon is located in our Johnson City office.

Shannon was moved from Chicago IL to upper East Tennessee as a child. She started working in the transportation and logistics business as clerical help at her father's trucking company during high school. Shannon's natural leadership abilities allowed her to easily take on different positions within the trucking company and move quickly into a management position. In Shannon's twenties, she took a sales management position for a national transportation company and relocated to Atlanta GA. Shannon decided to switch carrier paths just before getting married in 2008 and went to work for Wells Fargo Home Mortgage as a home mortgage consultant. She came to the Andersen Firm in June of 2014. Shannon graduated from East Tennessee State University with a B.S.P.S. Organizational Leadership and Management. She enjoys meeting new people and building life- long relationships. Shannon is married and has an energetic little boy. Shannon gives all the credit for her success to her family, her husband, and their continued support.