ATTORNEYS AT LAW
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3rd Quarter 2018

Current Events Update
for Financial Advisors

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

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Financial Advisors Current Events Update Third Quarter 2018

table of contents

the andersen firm	3
laugh of the day	3
how clients' divorce affects estate plans	4
two important tax changes for small businesses in 2018	7
five surprisingly common planning mistakes baby boomers are making in droves	11
the importance of remodeling a client's trust	12
designating a beneficiary - not as easy as it looks	14
gift tax, estate tax, inheritance tax and income tax by state	16
practice areas	18

on the cover

The photo was take on Holston Mountain where a series of four waterfalls can be found in the Stoney Creek community of Carter County, Tennessee. This area is known as Blue Hole Falls because of the deep blue pool in front of the main fall.

The photographer is Drew Christian (https://www.instagram.com/d.s.c.photography/)

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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.

laugh of the day...

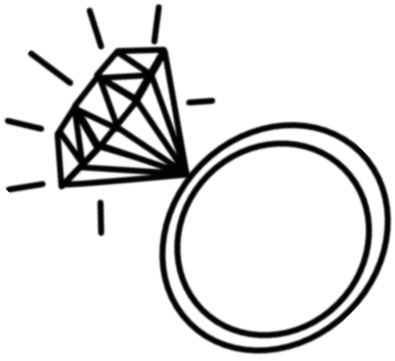
A woman's husband dies. He had $20,000 to his name. After everything is done at the funeral home and cemetery, she tells her closest friend that there is no money left.

The friend says, "How can that be? You told me he had $20,000 a few days before he died. How could you be broke?"

The widow says, "Well, the funeral cost me $6,500. And of course, I had to make the obligatory donation for the church and the organist and all. That was $500, and I spent another $500 for the wake, food and drinks, you know. The rest went for the memorial stone."

The friend says, "$12,500 for the memorial stone? My stars, how big was it?"

The widow says, "Three carats!"



How Clients' Divorce Affects Estate Plans

Because of the changes to alimony taxation under the new tax act, 2018 is proving popular for divorce. It is important to contemplate how divorce can effect estate planning. You already know, all too well, the havoc that divorce can cause in your clients' lives. Beyond the emotional turmoil, you and your clients may spend months splitting up assets, negotiating support and more. So the last thing your clients may want to hear is that they should schedule more meetings with attorneys, this time to address their estate plans, but here are some reasons why this is essential.

Let's start with the most obvious: most couples designate spouses as their beneficiaries, and often trustees or executors as well. Divorce does not automatically nullify these designations; they're still enforceable under the law. Although they are now divorced, it is possible that a client may want an ex to still inherit, be the trustee, etc., but the client should knowingly make those decisions.

Of course, divorce will have a dramatic effect on your client's financial holdings and taxes. Estate planning (such as creation or revision of an existing trust) may be able to help reduce the new tax liability he or she may be facing. So estate planning may be an important ingredient in structuring post-divorce holdings.

For recently divorced clients, perhaps the client's division of assets just made existing estate plans out of date. What if a couple had previously decided to will the house to their daughter, and the stock portfolio to the son? But the couple sold the house during the divorce. Without a revised plan, the daughter will inherit nothing.

Additionally, if a client had a joint estate plan previously prepared with his or her spouse, they may have chosen to bequest gifts to extended family, charitable entities or others that your client may no longer want carried out. Your clients need to make sure that bequests are in keeping with present priorities.

But even for those who have been divorced for years, planning is vital to address how ongoing child support or alimony payments may continue to impact their estate. A knowledgeable estate planning

attorney can help ensure that the support obligations are met regardless of what additional life changes may occur.

For those clients with minor children, they should determine if a new guardian is needed. Without legal documents to the contrary, a biological parent will take sole custody of a child — rather than a preferred grandparent or a stepparent. They may also need a new trust to provide management for their children's inheritance.

Additionally, there are small but crucial things that your client should take care of. Clients should decide who they'd like to name as a decision maker in the event of an emergency, for medical care and advance directives. They should give someone limited powers of attorney for business or legal decisions — who can run the company, pay the bills and more — in the event that they are not able to.

It's easy to think of divorce as cutting ties with the past. But your clients will benefit the most, if they also plan for the future.

Protecting Your Children's Inheritance When You are Divorced

Consider this story. Beth's divorce from her husband was recently finalized. Her most valuable assets are her retirement plan at work and her life insurance policy. She updated the beneficiary designations on both to be her two minor children. She did not want her ex-husband to receive the money.

Beth passes away one year after her divorce. Her children are still minors, so the retirement plan and insurance company require an adult to be appointed to receive the inheritance Beth left behind. Who does the court presumptively look to serve as the caretaker of this money? Beth's ex-husband who is now the only living parent of the children. (In some states, this caretaker of the money is called a guardian, whereas in others it is the conservator. The title does not matter as much as the role, which is to manage the funds on behalf of a minor, since the minor is not legally able to handle significant assets or money.)

Sadly, stories like Beth's are all too familiar for the loved ones of divorced people who do not make effective use of the estate planning tools. Naming a beneficiary for retirement benefits or life insurance, or having a will can be a good start. However, the complexities of relationships, post-divorce, often render these basic tools inadequate. Luckily, there is a way to protect and control your children's inheritance fully.

Enter the Trust

A trust allows you to coordinate and control your estate in a way that no other tool can. For those who are not yet familiar, a trust is a legal arrangement for managing your property while you are alive and quickly passing it at your death. There are a few key players in the trust. First, there is the person who created the trust, often called the Trustmaker, Grantor, or Settlor (this is you). Second, there's the Trustee who manages the assets owned by the trust (usually you during your life and then anyone you select when you are no longer able to manage the assets). Finally, the Beneficiaries are the people who receive the benefit of the trust (usually you during your life, and then typically children or anyone else you choose).

How a Trust Protects Your Children's Inheritance after a Divorce:

A trust protects your children's inheritance in a few distinct ways:

1. Since you select the Trustee, you can choose someone other than your ex-spouse to manage the assets. In fact, you can even state that the ex-spouse can never be a Trustee, if you wish. If Beth had a trust, she could have named her brother to be Trustee after her death. Her brother (rather than her ex-husband) would then be in charge of the children's inheritance.
2. Since you select the beneficiaries, you can determine how the trust assets can be used for them. You can also elect that none of the funds that are to be used for the benefit of a child may be directly distributed to the spouse. You may have ong-term goals for your beneficiaries, such as college, purchasing of a first home, or starting a business. When you share your intent, your Trustee can invest the assets appropriately and ensure your legacy is used the way you want, rather than the assets being potentially wasted or used in a thoughtless way. If Beth had a trust, she could have instructed how she wanted the inheritance used, rather than leaving it to the whims of a court and her ex-husband.
3. A fully funded trust avoids probate, so your children do not have to deal with the cost, publicity, and delay that is all-too-common in probate cases. Although "plain" beneficiary designations, like the one that Beth used, also avoid probate, they may still open the door for a guardianship or conservatorship court case, especially when your children are minors. A fully funded trust avoids these guardianship and conservatorship cases. This means more money for your intended beneficiaries and less for the lawyers and courts.

If you or your client(s) are divorced, it is essential to make sure the plan works precisely the way it was intended. Every situation is unique, but we are here to help design a plan that achieves you and your client(s) goals and works for each family. Give us a call today.

Let's Continue This Conversation

We can help with all aspects of estate planning law, and are here to answer questions, address concerns, and to help you or your clients achieve their goals. To schedule a complimentary estate plan review and discuss trust needs for divorcing couples, please contact ***Mel Campbell at 866.230.2206.***

Two Important Tax Changes for Small Businesses in 2018

Earlier this year Congress passed the "Tax Cuts and Jobs Act" which impacts both individuals and businesses.

There are two important tax changes in 2018 that will impact every business owner in the United States.

1. Corporate tax rates are now a flat 21% (permanent change)
2. Pass through entities such as LLC's get a 20% deduction (temporary change that expires in the year 2025 and provided that they meet certain criteria). Pass-thru entities include:
   - Sole proprietorships (no entity, Schedule C)
   - Real estate investors (no entity, Schedule E)
   - Disregarded entities (single member LLCs)
   - Multi-member LLCs
   - Any entity taxed as an S corporation
   - Trusts and estates, REITs and qualified cooperatives

Taxation Basics

Just a reminder, taxation of your business at the federal level depends on how your business is formed:

Sole proprietorship: Business owner does not file a separate tax return, and instead, business income and expenses are reported on a federal form 1040, Schedule C.

Partnership: An association of two or more persons to carry on a business and can take different forms (like limited or general partnerships). Partnerships file a separate return, federal form 1065, and pass the income or loss to each individual partner who is responsible for reporting the information on their tax return.

Two Important Tax Changes for Small Businesses in 2018

Limited Liability Company (LLC) is a hybrid entity that offers the option to be taxed as a partnership or a corporation. Many SCORE clients are Single Member Limited Liability Companies, typically treated as a "disregarded entity" for federal tax purposes. This means there's no separate tax form; income and expenses are reported on Schedule C, just like a sole proprietorship.

C Corporation: Files federal form 1120 and pays any tax due as a separate entity. Shareholders (owners) also pay tax at their individual income tax rates for dividends or other distributions from the Corporation and thus, corporations are subject to a "double tax." Corporations can also take the form of a Professional or Personal Service Corporation - typically service professions like lawyers, doctors and architects.

S Corporation: A corporation with tax treatment similar to a partnership. An S corporation files a federal form 1120-S which passes most items of income or loss to shareholders (owners) who are responsible for reporting the information on their individual tax returns.

B Corporation: Benefit corporation that seeks to make a profit, but has a social mission as part of its existence. B Corps can elect to be taxed as a C Corp (corporate tax rates – form 1120) or S Corp (pass through to shareholders / owners – from 1120-S).

Corporate Tax Change

If your business is formed and registered as a corporation, then you will apply a single rate of 21% to your taxable income for the corporation. Additionally, there is no Alternative Minimum Corporate Tax starting in 2018.

Pass Through Entities – Section 199A Deduction

If your business is a pass-through entity (sole proprietorship, partnership, LLC or S-corporation), then you can now deduct 20% of your Qualified Business Income. Qualified Business Income represents the bottom line profits from your business; i.e. all of your business revenues less all business expenses.

NOTE: Be careful and make sure you include deductions for all W-2 payroll, including deducting out guaranteed payments to partners or a W-2 salary that the owner paid him or herself under a S-corporation when determining Qualified Business Income.

Example:

- You own a business that elects to be an S-Corporation, and you have calculated your profits from your business as $120,000 for 2018, before taking a salary of $50,000.
- For purposes of calculating the 20% deduction, your Qualified Business Income is $70,000 ($120,000 minus $50,000)
- And your deduction is $14,000 (20% x $70,000).

The law also imposes caps and phase out amount when taking the 20% deduction. The caps or ceilings are:

1. $157,500 of total taxable income for a single tax payer; or
2. $315,000 of total taxable income for married filing a joint return

NOTE: Total taxable income is everything – Adjusted Gross Income on your tax return which accounts for certain deductions that may not be related to how you calculate Qualified Business Income.

Example:

- You own a business and your total adjusted income, which includes both business and personal items, is $120,000.
- However, your Qualified Business Income is $160,000.
- Your 20% deduction is $24,000 ($120,000 x 20%).

Special Service Business

There are also phase out amounts that when reached, can eliminate the 20% deduction altogether if your business is a "special service business." The phase-out amounts are:

1. $207,500 of total taxable income for a single tax payer; or
2. $415,000 of total taxable income for married filing a joint return

A "special service business" is a business in the fields of accounting, law, health, consulting, athletics, financial services or any business where the reputation or skill of the employee is such that it represents the critical asset for the businesses existence; i.e. can the business survive if this person were to walk out the door? For these types of businesses, you lose the entire 20% deduction once your total taxable income is over $207,500 (single) or $415,000 (married joint return). Specified Service Trade or Business is defined as:

- Traditional service professions such as doctors, attorneys, accountants, actuaries and consultants
- Performing artists who perform on stage or in a studio
- Paid athletes
- Anyone who works in the financial services or brokerage industry
- And now the hammer… "any trade or business where the principal asset is the reputation or skill" of the owner. Why didn't they just start with this since everything else would have been moot. Oh well…

If your taxable income falls in between the ceiling amounts ($157,500 / $315,000) and the phase out amounts ($207,500 / $415,000), then you can take a partial deduction which requires that you compare your deduction against the greater of:

1. 50% of total W-2 wages paid by the business during the year; or
2. 25% of total W-2 wages paid by the business during the year + 2.5% of depreciable assets at their acquisition cost to the business

The Bottom Line

As long as your total taxable income for the year is less than $157,500 as a single tax payer or less than $315,000 for married joint return, you can deduct the full 20% regardless of what type of business you have. ***About 70% of small businesses in the United States make below these ceiling amounts.***

When you go above these amounts ($157,500 or $315,000), you will have to take a partial deduction, and this involves a number of calculations, including consideration of depreciable assets. So please see a CPA or other professional to help you calculate the partial deduction.

Every business owner must have his or her business ownership structure and tax status reviewed right away. Relying on old rules of thumb or ignoring this monumental change in business taxation could mean paying enormous amounts of unnecessary taxes.

We like to focus on how we can help your business owning clients reduce their tax burden.

- It is now more important than ever to review business structures for tax efficiency. Any business that is not operating as a pass-through entity should consider doing so to take advantage of the new rules that make pass-through entities even more attractive.
- Clients that reinvest heavily in the business with plans for a future IPO or other sale may consider operating as C corporations to take advantage of the new 21-percent rate (down from 35 percent) that applies to corporate income.
- For "professional service business" clients (like lawyers, accountants, etc.) we must consider transitioning to a new tax structure, reorganizing operations to shift income into other entities, or forming a defined benefit program, among other potential strategies. Note that professional service businesses with income less than $157,500 (for individuals) or $315,000 (for married filing jointly) can use the new, favorable rates generally available to pass-through entities. However, professional service businesses exceeding those thresholds are subject to phaseout and may even be left out of the new, favorable rates if their income is high enough. There are still opportunities to reduce income taxes for all businesses.

Of course, there are no one-size-fits-all approaches or solutions.

Each business has a unique tax status that we'll need to consider before making any changes. Delay is the worst possible tactic for your clients. The best thing to do now is call **Mel Campbell at 866.230.2206 or MCampbell@TheAndersenFirm.com** and get on the calendar as soon as possible so we can get the ball rolling on developing a personalized tax-savings plan for your business owner clients.

Five Surprisingly Common Planning Mistakes Baby Boomers are Making in Droves

Baby boomers - this generation, which includes those born between 1946 and 1964, have entered and continue to enter into retirement. As they make this financial transition into retirement, many are learning that they have made some of the most typical retirement mistakes.

If you've made a financial mistake or two, there's still time to avoid these five surprisingly common planning mistakes baby boomers are making in droves.

Mistake #1: Believing Estate Planning is Only for the Wealthy: While baby boomers are not the only ones guilty of this mistake, the common misconception is that only the ultra-rich need to have an estate plan prepared. By some reports, about half of Americans between the ages of 55 and 64 do not even have a will. Because estate planning encompasses not only protection of your assets (regardless of how much you've accumulated), but also your healthcare choices, the lack of planning can leave you in a dire situation should any medical issues arise.

Mistake #2: Checklist Mentality: For many, estate planning is just the preparation of legal documents. Once the documents are signed, the client crosses off the item from his or her to-do list and moves on. It is important to remember that your circumstances may (and usually will) change. The likelihood of this happening increases the longer time goes by. To ensure your estate planning objectives are carried out, you should update your estate plan every time a major (or minor) life change happens, such as retirement, divorce, birth or death of children, etc.

Mistake #3: Not Completing Your Estate Planning Homework: Just because the estate planning documents have been signed does not necessarily mean that the planning is complete. It is important that any assets that need to be retitled are done so as soon as possible, before you forget. If the ownership or designations on financial accounts and property do not align with your estate planning strategy, there can be major problems in the future. Improper titling of financial accounts or property can result in an unexpected or undesirable distribution. This can happen because you may make one plan through your will or trust, but the ultimate determination of who inherits will rely on the ownership or beneficiary designation of those assets upon your death.

Mistake #4: Leaving Out Little (And Not So Little) Things: It is important to consider all forms of property, not just the high-value assets when putting together an estate plan. Some of the most commonly overlooked assets include digital assets, sentimental personal property, and family pets. If not expressly addressed in your estate plan, your family may end up fighting over valuable assets, abandoning those they deem worthless, or not even realizing certain assets existed.

Mistake #5: Not Preparing for Life Events & Emergencies: No one has a crystal ball. However, with proper estate planning, you may be able to help clients weather the storm brought on by some of life's unexpected events or emergencies. With long term care costs increasing year after year, planning for the future possibility of a nursing home can save money and reduce worry if the time comes.

Estate Planning Help

Although many baby boomers have made these mistakes, you do not have to be one of them. Consult with us to learn about estate planning options and to make sure your clients and their families are protected from these common mistakes.

Importance of Remodeling a Client's Trust

It's a common misconception that clients can take a set-it-and-leave-it approach to trusts. Much as houses or office buildings, even those that were originally well-built, must be remodeled or updated from time to time, a trust-centered estate plan can often benefit from a remodel or refresh. Although the principle of trust-centered estate planning has stood the test of time, there are many reasons, such as the recent tax reform, a change in family wealth or circumstances, or just a change in estate planning goals, that may necessitate a remodel for an old trust. Clients gain peace of mind while you get an opportunity to provide value.

Why updating old trusts serves both you and your clients

Your clients may be missing out on lucrative new opportunities, such as income tax planning opportunities to reduce the impact of the new SALT deduction limitation, or necessary protections against overly aggressive creditors unless they update their old trusts. Seizing an opportunity to review potential trust changes with clients exemplifies the added value of your services and secures you as their top-of-mind financial professional. This is the type of service that garners "word of mouth" referrals and potentially new clients.

Modernizing old trusts isn't just beneficial for your clients' financial circumstances — it'll also help you do your job with greater ease and efficiency. Old trusts can be hard to work with on a variety of levels. Managing assets across multiple, similar trusts can be more difficult for you as their financial advisor, makes tax reporting for the CPA more cumbersome, and makes administration for the client or trustee needlessly challenging. Remodeling these trusts, consolidating them, or otherwise modifying them to make administration easier saves costs for clients and makes your job easier.

A common misunderstanding among many individuals is thinking that irrevocable means unmodifiable. Even if a trust is irrevocable, it is often possible to remodel and refresh. The exact mechanics will always vary depending on the client's situation, but it's almost always possible to make some improvements.

A trust may need updating for a variety of reasons:

1. Changes in legislation, like the December 2017 Tax Cuts and Jobs Act
2. Changes in the clients' asset mix or wealth level
3. Changes in family structure, such as divorce, remarriage, birth of a new child or grandchild, or death of a family member
4. Changes in the clients' risk profile, such as transitioning into a new business or career

Although not common (but it does happen from time to time), trusts can and should also be refreshed any time an error is present in your clients' estate planning documents. The good news is that this type of fix is often more like putting up a fresh coat of paint (an easy fix). Remember, it is far better to correct a typo or (what we see more often) an unclear section now, rather than waiting until it becomes a potentially costly headache later. Clients don't expect perfection, but they do want their financial and estate plans to work when they're needed.

Remodeling Bill and Susan's Plan

Like many people, Bill and Susan had a trust prepared that provides for their two sons, Junior and

Bobby, upon their death. To keep things fair, the same distribution provisions were used for the two boys. When they created the trust, the boys were young children. Of course, the inevitable passage of time has now made them young men, and both boys are now over 21.

As many parents do, Bill and Susan set up the trust to divide into two shares: one for Junior and one for Bobby. The money was going to be managed until they turned 21 and then outright distributions are to be made as soon as the children turn 21. This is a common type of structure to provide asset management for minor children beneficiaries.

As of today, the value of the trust is approximately $800,000, meaning each son will receive about $400,000 less expenses. When they initially prepared their trust, they did not yet know how Bobby and Junior would handle money since the boys were much younger. However, Junior's lack of financial responsibility has left him with debts of over $400,000, some of which he pays on time and others he doesn't. If Bill and Susan were to die today, Junior's creditors could sue him and seize his inheritance, leaving Junior with nothing. Bobby, who's been financially responsible, would receive his inheritance outright, without any protections or safeguards.

By remodeling the trust, Junior's share can be changed to ensure that the money is "locked down" with an independent trustee. Rather than creditors receiving the money, it could then be available for Junior's medical or basic living needs. Additionally, Bill and Susan may decide to provide Bobby with a lifetime of asset protection as well by leaving his inheritance in a lifetime, beneficiary-directed trust. Because of the great relationship that Bill and Susan have with you, they indicate in the trust that they'd like you to serve as the continued investment advisor, giving them peace-of-mind that the kids will have sound guidance for the future.

Customizing the inheritance for each beneficiary is a great way for clients to enhance the legacy they leave their beneficiaries. When clients use lifetime trusts rather than outright distributions, it provides you with a great opportunity to build a relationship with the next generation of family while simultaneously protecting assets for future beneficiaries. This is only a simple example of the possibilities. As always, we invite you to call and strategize with us about any particular client you think could benefit from our services.

Supplementary benefits of trust modernization

While there are many glaring reasons to update a trust like the ones listed earlier, your clients can also enjoy other perks when they modernize. Your clients could be paying unnecessarily (and avoidable) high income tax rates on some income or missing out on a second basis step-up option that would save them substantial sums in the long run. Outdated trusts can also minimize your clients' ability to use their trusts effectively to pass along their values and legacy by requiring distributions that do not really reflect the clients' goals. In addition to making sure your clients' trusts still uphold their wishes for the distribution of their estate to their beneficiaries, there are also worthwhile financial incentives that they can benefit from right away when modernizing trusts.

As their financial advisor, your clients will thank you for alerting them to the opportunity to remodel and refresh their old trusts to take advantage of new opportunities while continuing to avoid and minimize risk. The result? A fuller, more secure life. If you have clients with trust-centered estate plans that are more than five years old, we'd love to explore whether a remodel is in order. Give us a call today.

We're here to assist. Give us a call or email us with your questions at any time. To schedule a complimentary estate planning review for yourself or your clients or prospects, contact **Mel Campbell at 866.230.2206 or MCampbell@TheAndersenFirm.com**

DESIGNATING A BENEFICIARY- NOT AS EASY AS IT LOOKS

Comprehensive, high quality estate planning involves much more than preparation of wills, trust instruments and durable powers of attorney. Many assets owned by our clients, including life insurance proceeds, employer-provided retirement plans, individual retirement accounts and annuities, are designed to pass at death, initially, not by means of traditional estate-planning documents but, rather, by beneficiary designation. Often, assets that pass by beneficiary designation are among our clients' most valuable property.

Disposing of property by beneficiary designation has benefits. Assets that pass at the owner's death directly to named distributees by means of a beneficiary designation form generally aren't subject to any sort of probate proceeding. In many cases, avoidance of probate is accomplished by completing, signing and submitting a form designed and provided by an insurance company or financial institution at no cost to the asset owner.

Underlying Hazards

Although disposition of certain assets through beneficiary designations can be efficient and cost-effective, the apparent simplicity of naming beneficiaries, particularly when using pre-printed forms offered by an insurance company or a financial institution, frequently masks serious underlying hazards. For example:

• A surviving spouse, if named as beneficiary of the predeceased spouse's "eligible retirement plan," has the right to roll over that eligible retirement plan to another eligible retirement plan. Similarly, a surviving spouse, if named as beneficiary of the predeceased spouse's IRA, may treat that IRA as the surviving spouse's own IRA. In either situation, distributions (and income tax on distributions) can be deferred until the surviving spouse reaches age 70½. Such deferral is very difficult if a trust for the benefit of the surviving spouse is named as beneficiary.

• If a single trust having multiple beneficiaries (such as an individual's children or descendants) is named as beneficiary of a decedent's interest in a qualified retirement plan or IRA, required minimum distributions (RMDs) will be determined using the life expectancy of the oldest such beneficiary (thereby causing higher than necessary income tax for all other trust beneficiaries). The "separate account" rules, which ordinarily would enable each distributee's life expectancy to be used to calculate the RMD amounts payable to such distributee, aren't available to trust beneficiaries in this circumstance. *However, there are ways to structure trusts and beneficiary designations where you can name a trust as a beneficiary and still get the stretch over each beneficiaries' life expectancy.*

• The insurance company or financial institution may urge its customer to designate beneficiaries by name, address and social security number, but such an approach may be inconsistent with the customer's true dispositive desires or may not operate as intended if a named beneficiary (such as a child of the customer) predeceases the customer survived by children of his own.

• The insurance company or financial institution may not understand or be willing to follow a direction to distribute among an individual's then-living descendants per stirpes. The insurance company or a financial institution may consider it impractical to ascertain the identity of such descendants.

• A direction to distribute to a trust will require the insurance company or financial institution to determine who is the duly acting trustee of the trust at the time funds are to be distributed. Some beneficiary designation forms require including the name of the trustee, but that individual may or may not be acting as such when the beneficiary designation is to be implemented.

• If a given beneficiary designation form makes it impossible or awkward to designate a trust, distribution to beneficiaries who are minors or incapacitated is very problematic—often requiring appointment of a guardian or conservator for any such beneficiary.

SUGGESTED PRACTICES

While there's no perfect solution to all possible problems arising from completion of beneficiary designation forms provided by an insurance company or a financial institution, the frequency and gravity of such problems can be minimized by adopting the following practices:

- **Use The Andersen Firm's customized beneficiary designation forms provided during the estate planning process.** Completion of beneficiary designation forms should never be left to non-estate-planning professionals. A beneficiary designation form is a weighty estate-planning mechanism, and its completion should be treated with the same degree of care and attention as is given to preparation of trust instruments.
- Once you have consulted with The Andersen Firm and relayed your intentions to them, The Andersen Firm's customized beneficiary designation forms ensure that the designation of both primary and contingent beneficiaries is consistent with the asset owner's relevant estate-planning documents.
- The Andersen Firm knows the rules governing beneficiary designation forms and can provide proper language to allow a beneficiary to renounce or disclaim their interest if that is in the best interest of the beneficiary. If the asset in question is an interest in a qualified retirement plan, the governing documents of qualified plans must comply with all requirements imposed by federal law. However, plan documents may specify their own rules regarding such distributions, as long as they're consistent with the Internal Revenue Code and the Employee Retirement Income Security Act. Administrators of qualified plans generally prefer to distribute a deceased participant's interest in the qualified plan as quickly as possible and with the most administrative ease. Therefore, our customized beneficiary designation forms are essential in order to ensure certain beneficiary designations, as well as certain dispositive schemes, for qualified plan interests are followed.
- Whenever possible, obtain confirmation from the insurance company or financial institution that it's received and accepted the beneficiary designation form as completed. This step is crucial when there is a custom-drafted beneficiary designation or attachment to the institution's form.

If Form Not Accepted

Unfortunately, an insurance company or financial institution will sometimes refuse to accept a beneficiary designation form completed in a reasonable manner that would carry out the asset owner's strongly desired objectives. In such a case, if practical, the customer should consult with his financial advisor and attorney to determine if the beneficiary designation form can be completed differently in order to accomplish his/her wishes. As a last resort, he/she may consider moving the asset to a different service provider. The Andersen Firm has worked with many of the larger institutions to create and customize forms that are now accepted by their legal departments.

Our staff is pleased to assist you or your clients with your beneficiary designation forms. If you have questions about how to make sure your assets are distributed in accordance with your wishes, please contact our office.

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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	6.9%
California	None	None	None	13.3%
Colorado	None	None	None	4.63%**
Connecticut[2, 3]	$2.6M Exemption Top Tax Rate 12%	$2.6M Exemption Top Tax Rate 12%	None	6.99%
Delaware	None	None	None	6.6%
District of Columbia	None	$11.2M Exemption* Top Tax Rate 16%	None	8.95%
Florida	None	None	None	None
Georgia	None	None	None	6%
Hawaii[1, 4]	None	$11.2M Exemption* Top Tax Rate 15.7%	None	11%
Idaho	None	None	None	7.4%
Illinois[2]	None	$4M Exemption; Top Tax Rate 16%	None	4.95%**
Indiana	None	None	None	3.23%**
Iowa	None	None	No Exemption Top Tax Rate 15%	8.98%
Kansas	None	None	None	5.7%
Kentucky	None	None	Up to $1K Exemption Top Tax Rate 16%	6%
Louisiana	None	None	None	6%
Maine [1, 2]	None	$11.2M Exemption* Top Tax Rate 12%	None	7.15%
Maryland[5]	None	$4M Exemption Top Tax Rate 16%	10% Tax Rate	5.75%
Massachusetts[6]	None	$1M Exemption Top Tax Rate 16%	None	5.1%**
Michigan	None	None	None	4.25%**
Minnesota	None	$2.4M Exemption Top Tax Rate 16%	None	9.85%
Mississippi	None	None	None	5%
Missouri	None	None	None	5.9%
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[7]	None	None	Up to $25K Exemption Top Tax Rate 16%	8.97%
New Mexico	None	None	None	4.9%

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West Florida Office
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Suite 603
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Tennessee Office
862 Med Tech Parkway
Suite 200
Johnson City, TN 37604

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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[2,8]	None	$5.25M Exemption Top Tax Rate 16%	None	8.82%
North Carolina	None	None	None	5.5%
North Dakota	None	None	None	2.9%
Ohio	None	None	None	5%
Oklahoma	None	None	None	5%
Oregon[2]	None	$1M Exemption Top Tax Rate 16%	None	9.9%
Pennsylvania	None	None	No Exemption Top Tax Rate 15%	3.07%**
Rhode Island[1]	None	$1.538M Exemption Top Tax Rate 16%	None	5.99%
South Carolina	None	None	None	7%
South Dakota	None	None	None	None
Tennessee[2]	None	None	None	3%****
Texas	None	None	None	None
Utah	None	None	None	5%**
Vermont	None	$2.75M Exemption Flat Tax Rate 16%	None	8.95%
Virginia	None	None	None	5.75%
Washington[1, 2]	None	$2.193M Exemption Top Tax Rate 20%	None	None
West Virginia	None	None	None	6.5%
Wisconsin	None	None	None	7.65%
Wyoming	None	None	None	None

1 Exemption is indexed for inflation each year

2 No portability

3 Connecticut gift and estate exemption increases to $3.6M in 2019 and matches the federal exemption amount in 2020; assets over $2.6M 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); the estate tax cap is scheduled to be reduced to $15M in 2019.

4 Hawaii has a $1M "zero bracket" in addition to the federal exemption. This means there is no state estate tax owed on the first $6.6M.

5 Maryland is scheduled to match the federal estate tax exemption in 2019

6 Massachusetts' estate tax is a threshold not an exemption; meaning if estate value is over $1M after deductions, state estate tax is owed on the entire estate thereby creating a tax cliff.

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

8 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.

* 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

Revised May 2018

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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

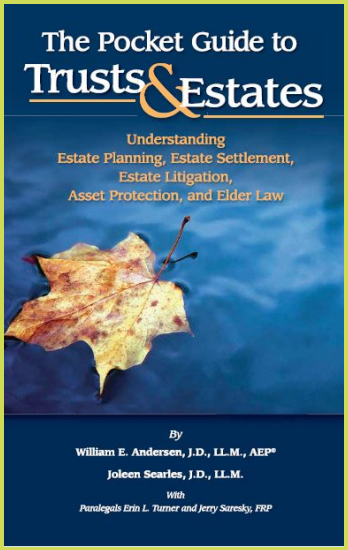
Our attorneys are skilled at handling cases involving estate and trust disputes, civil litigation, commercial litigation, and real estate litigation. Our attorneys draw on a thorough knowledge base of the specific procedures surrounding these issues. The Andersen Firm can efficiently take each case through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

Real Estate

Our attorneys possess the expertise of being able to draft and review any 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.

NEW EDITION COMING SOON

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 866.230.2206 or by email at AHooper@TheAndersenFirm.com.

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