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October 2020

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Estate Planning Matters Now More Than Ever

My name is James Wright, and I have the honor and privilege of being the President of the Estate Planning Council of Emerald Coast for the 2020 calendar year. The year 2020 has been a year like we have never seen and will be one we will not soon forget. The Covid-19 pandemic has completely altered and reshaped the lives of many of us. Wearing face masks and new phrases like "social distancing" have now become common place. The pandemic has also caused us to face our own mortality as we have seen the number of deaths across the United States and around the world caused by this disease. As a result, this pandemic has put to the forefront the importance of having our financial and legal affairs in order.

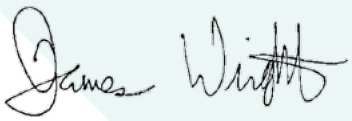
The Estate Planning Council of the Emerald Coast is a local organization comprised of Attorneys, CPAs, Wealth Managers and Financial Advisors who are capable of helping you ensure your affairs are in order and your wishes are followed after your death. No one likes to think of his or her death; however, it is something we all must consider and having our affairs in order makes it so much easier on our loved ones. The piece of mind your loved ones have knowing they are following your wishes is invaluable.

It is our hope the articles and content you read in the following pages provide meaningful information and help you as you think about these decisions. We also hope you will join us on October 22, 2020 at Northwest Florida State College or online for our Third Annual Estate Planning Day as part of National Estate Planning Week. Like years past, we will have panel discussions on various estate planning topics presented by members of our Estate Planning Council.

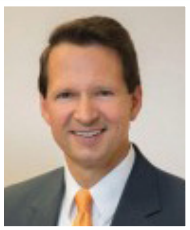
We would like to dedicate this year's Magazine to our colleague, friend and last year's President, Kevin Helmich. Kevin was an active member of our Council and knew the importance of estate planning.

On behalf of the Estate Planning Council of the Emerald Coast, it is my honor and pleasure to present the Third Annual Estate Planning Magazine. We hope you enjoy.

Sincerely,



James D. Wright, CPA, J.D., LL.M.
President, Estate Planning Council of the Emerald Coast



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THE CARES ACT—
AN INCOME TAX PERSPECTIVE

BY DEANNA L. MULDOWNEY, CPA, AEP AND JAMES D. WRIGHT, CPA, J.D., LL.M.

The year 2020 will be one for the record books as they say. The Covid-19 global pandemic has completely changed the way we conduct our everyday lives. New phrases like "social distancing" and wearing facemasks have become our new normal. We have also seen Depression Era unemployment rates, a volatile stock market and a contracting economy. In response to the pandemic and in an effort to ease some of the economic pain, Congress passed the CARES ACT on March 27, 2020.

The CARES Act did many things to help businesses and individuals weather the economic storm. The follow are a few of the items that could affect us from an Income Tax perspective:

Stimulus Payments:

The most widely known aspect of the CARES Act were the stimulus checks that many individuals received. An individual could receive up to $1,200 or a married couple could receive $2,400 plus an additional $500 per child. These payments were based on a person's income level, and the payments phased out for individuals with income levels of $75,000 if single or $150,000 if married.

Generally, these payments are not subject to income taxes, but in certain situations, they could be taxed. For example, in an effort to provide these payments as quickly as possible, the U.S. Treasury based the eligibility for the payment on a person's 2018 income tax filing if their 2019 tax return had not been filed yet. Therefore, if a person received a stimulus check, based on their 2018 tax return, but would not have qualified for one based on their 2019 tax return, that payment will be taxable on their 2020 income tax return.

Unemployment Benefits:

Unfortunately, because of the pandemic, many people lost their jobs and were forced to file for unemployment benefits. The CARES Act provided an additional $600 per week benefit to the benefit provided by the states. It should be noted that unemployment benefits are subject to income taxes, and the CARES Act did not waive that requirement.

> THE CARES ACT WAS AN EFFORT BY CONGRESS TO HELP RELIEVE SOME OF THE PAIN CAUSED BY THE GLOBAL PANDEMIC WITH MANY INCOME TAX ISSUES TO CONSIDER.

Retirement Funds:

As a general rule, you must be a certain age to withdraw retirement funds or you will be subject to a 10% early withdrawal penalty in addition to the income taxes you pay on those withdrawals. However, for 2020, you can withdraw up to $100,000 from your retirement plan and avoid the 10% early withdrawal penalty. The funds will be subject to income taxes, but the taxes may be paid over 3 years.

In order to qualify, you must have been impacted by Covid-19. Examples of being "impacted by Covid-19" include but are not limited to: you, your spouse or dependent testing positive for the virus, or being laid off, furloughed or having work hours reduced.

Once you reach a certain age, the IRS requires individuals to take required minimum distributions (RMDs) from their IRAs or 401(k) plans. These distributions are typically subject to income taxes. However, for 2020 only, the CARES Act suspended the requirement to take RMDs. As a result, some people may consider not taking an RMD for 2020 if they do not need the money.

The CARES Act was an effort by Congress to help relieve some of the pain caused by the global pandemic, and we have only highlighted a few provisions. As you can see, there may be income tax issues to consider. It is important to talk with your CPA, Financial Advisor or Attorney to see if any of the provisions will affect you.

Deanna L. Muldowney, CPA, AEP and James D. Wright, CPA, J.D., LL.M. are Tax Partners with Carr, Riggs & Ingram, LLC.

WHAT IS A "GUN TRUST" AND DO YOU NEED ONE?

BY AMY PEDONE SLAMAN & AMELIA H. BEARD

All gun owners, whether a collector, enthusiast, or one just getting started with heavy ordinance, should consider as Gun Trust. A "Gun Trust" is a type of trust created by a weapon owner (a "grantor") to deal with the issues of owning, possessing, using, shipping, transporting, receiving, delivering, transferring, or otherwise disposing of firearms, especially Title II firearms. Title II firearms include short-barreled rifles and shotguns, as well as machine guns, and silencers. In addition to routine Title I firearms such as revolvers, pistols and rifles, Florida law allows residents to possess certain firearms (and accessories) that are regulated under Title II of the National Firearms Act ("NFA"). However, the ownership and transport of Title II firearms is highly regulated and violation of laws relating to Title II weapons are often felony level crimes.

FLORIDA LAW ALLOWS RESIDENTS TO POSSESS CERTAIN FIREARMS THAT ARE REGULATED, HOWEVER, THE OWNERSHIP AND TRANSPORT OF TITLE II FIREARMS IS HIGHLY REGULATED AND VIOLATION OF LAWS RELATING TO TITLE II WEAPONS ARE OFTEN FELONY LEVEL CRIMES.

In creating a Gun Trust, the grantor will name a trustee (or trustees) who can then legally possess, manage, and use any firearm or accessory held within the trust. Generally, the grantor will at least name him or herself as an initial trustee or co-trustee. In order to serve as trustee, a person must be eighteen years or older and not legally prohibited from possessing a firearm. Once the Gun Trust is set up, the grantor is no longer the registered owner of the weapon(s) and there is no limit to the number of trustees named or the amount of Title I or Title II firearms that can be held by the trust.

The grantor will also name a beneficiary (or beneficiaries) of any age, that will receive the firearm(s) upon the grantor's death, incapacity, or the occurrence of some other specific event or date. In addition to the benefits of use during the grantor's life, a Gun Trust also allows for legal possession and orderly distribution of the firearms to the beneficiaries while avoiding probate. Avoiding probate has the added value of privacy. Probate documents are public documents filed with the court and can be available for anyone to see. Florida probate requires the filing of an inventory of the decedent's assets. The inventory would include a list of all firearms owned by the decedent and the value of each. Trust administrations are private. The only parties that would know about the firearms and their values would be the grantor, trustees and beneficiaries.

The Gun Trust will allow for legal transfer of all Title I and Title II firearms pursuant to the terms of the trust established by the grantor. Beneficiaries must still go through the background check and identification process before the trustee can turn over possession to the beneficiary, so the grantor should be mindful in choosing those persons to inherit the firearms. Undoubtedly, a Gun Trust is a valuable tool to provide for transfer of weapons for any owner, particularly collectors, enthusiasts and Type II weapons owners.

A Gun Trust is separate from all other estate planning documents, thus the grantor can choose trustees and beneficiaries they know will handle firearms properly. Gun Trusts are typically revocable, thus as long as the grantor has capacity, amendments can be made to the Gun Trust, including a change to the weapons, the trustees, and/or the beneficiaries. A Gun Trust also provides protection against the grantor's incapacity. An incapacitated person cannot own a firearm. With a Gun Trust, if the grantor or trustee becomes incapacitated, the co-trustee or successor trustee simply takes possession of the firearms in trust and administers them according to the terms of the trust.

If you legally own a Title II weapon, you should have a Gun Trust. If you are a collector of firearms, you should have Gun Trust, even if you do not own any Title II weapons. The cost of creating and administering a Gun Trust is a small price to pay to avoid the issues created by leaving behind a collection of Title I weapons or a single Title II weapons.

I'M A TRUSTEE?!

BY THE AMERICAN ACADEMY OF ESTATE PLANNING ATTORNEYS

It is an honor to be named the successor Trustee of a loved one's Trust. As the name implies, you've been given a position of trust and responsibility, and it means that your loved one thinks highly of your skill and ability, not to mention your integrity.

So, what does a successor Trustee do?

Normally, the person who creates a Trust serves as the initial Trustee. Your job as the successor Trustee doesn't begin until that person dies (or, in some cases, becomes disabled). At this point, you step into the Trustee's shoes.

As the successor Trustee, you are in charge of administering the Trust. This means that you are obligated to follow the written terms of the Trust along with any applicable provisions of state or federal law in gathering, managing, and distributing the Trust assets.

The terms of each Trust are different, depending on the purposes for which it was established, the property owned by the Trust, and the situations of the various Trust beneficiaries. This means there is no one-size-fits-all set of instructions for administering a Trust. Instead, you will need to closely follow the written terms of the Trust, employ your good judgment, and likely seek the advice of one or more experts.

Some of the questions you'll encounter as you administer the Trust include:

- What distributions need to be made? Do these distributions need to be made to one or more beneficiaries, to one or more sub-Trusts, or to a combination of these?
- What about taxes? Are estate taxes due? What about income taxes – do they need to be paid on behalf of the Trust grantor or the Trust itself?
- Should you buy or sell assets on behalf of the Trust? How should you invest Trust assets?

Serving as the successor Trustee means you have a fiduciary duty to the beneficiaries. You must manage the Trust assets in the best interests of the beneficiaries, rather than managing the assets as if they are your own. Managing this way can complicate certain decisions that would normally be simple.

For instance, deciding how to invest Trust assets might seem simple. However, you'll need to consider the written terms of the Trust, the requirements of state law, and a number of external factors in reaching the best choice. One of your duties is to invest Trust assets in a prudent manner. But what exactly does this mean?

EACH TRUST COMES WITH A UNIQUE SET OF CIRCUMSTANCES THAT CAN MAKE THE JOB OF A SUCCESSOR TRUSTEE TRICKY.

As the successor Trustee, it might seem that the safest decision is to continue the investment choices of the initial Trustee. However, this course of action doesn't factor in changes in the market. A down market can mean losses for the Trust — losses for which you as the successor Trustee could be held responsible.

Each Trust comes with a unique set of circumstances that can make the job of a successor Trustee tricky. In most cases, it is wise to seek professional guidance as you complete the Trust administration process.

THE GREATEST GIFT

BY HUBERT A. ROSS
CPWA, CFP, CHFC, AEP

Perhaps the greatest gift you can give your loved ones, second only to love, is a well thought out and documented estate plan that reflects your values and wishes.

Every third week in October we celebrate National Estate Planning Awareness Week. It's a time to reflect on who will legally make decisions for us if we become incapacitated and what happens to our belongings after we pass. This year, perhaps more so than in recent years, it may be a little easier to get folks to reflect on their plans and take the necessary actions to insure they are up to date. Just knowing you need a plan is never enough; you have to do it.

The COVID-19 global pandemic has resulted in over 190,000 deaths in the United States and many more hospitalizations that left patients unable to make important medical and financial decisions for themselves. COVID-19, it turns out, was yet another stark reminder that despite our best efforts, things don't always work out the way we would like.

Imagine two families who each lost a loved one to COVID; one who had a well thought out and documented estate plan, and the other didn't. Both families had to deal with the trauma of watching their loved ones be overcome with illness and subsequently die. But the family without a plan also had to contend with making lots of difficult decisions about what care their loved one would want and where, what final arrangements they would want, and what they would want to happen to all their belongings. Perhaps you know these families; perhaps one of them is yours.

Don't put your family through unnecessary trauma. Do yourself and your family a favor, take action now to establish or review and update your estate plan, then share it with them. Decide who you want to handle your financial affairs if you no longer can, and make sure they have the legal authority to act. The same goes for making medical care decisions. Talk with your loved ones about what provisions you've made for your own care and your wishes. Finally, decide who you want to inherit your assets and when. Don't leave it to someone else to figure out and potentially argue about after you're gone.

Perhaps the greatest gift you can give your loved ones, second only to love, is a well thought out and documented estate plan that reflects your values and wishes. You don't believe me? Just ask a family whose loved one had a plan and one that did not.

POLARIS
WEALTH MANAGEMENT

Qualified Charitable Distribution (QCD)

BY MARK DUTRAM, CPWA®, CFP®, AEP®

Covid – 19 has touched so many lives and like any circumstance we encounter, we decide how we will respond to that adversity. Despite all the negative headlines, we have all seen our clients and communities respond in a compassionate way to assist "our neighbors". Even though the Cares Act waived the Required Minimum Distributions (RMDs) for most retirement accounts this year, you still have a tax efficient way to help those in need.

What is a QCD?

A QCD is a direct transfer of funds from your IRA custodian, payable to a qualified charity. QCDs can be counted toward satisfying your required minimum distributions (RMDs) for the calendar year, which again, was waived for 2020. In addition to the benefits of giving to charity, a QCD excludes the amount donated from taxable income, unlike regular IRA withdrawals. Keeping taxable income low, may also reduce the impact of tax credits and deductions, including Social Security and Medicare. QCDs don't require that you itemize, which due to the recent tax law changes, means you may decide to take advantage of the higher standard deduction, but still use a QCD for charitable giving.

Do I qualify for a QCD?

While many IRAs are eligible for QCDs there are requirements:

- You must be 70½ or older to be eligible to make a QCD.
- QCDs are limited to the amount that would otherwise be taxed as ordinary income. This excludes non-deductible contributions.
- The maximum annual amount that can qualify for a QCD is $100,000. This applies to the sum of QCDs made to one or more charities in a calendar year. Your spouse can also make a QCD from his or her own IRA within the same tax year for up to $100,000.
- For a QCD to count towards your current year's RMD, the funds must come out of your IRA by your RMD deadline, generally December 31.

These distributions work within the calendar year. Any amount donated above your RMD does not count toward satisfying a future year's RMD.

Be careful not to have the funds distributed directly to you, the IRA owner. Even if you then give to the charity, this does not qualify as a QCD.

What kind of charities qualify?

The charity must be a 501(c)(3) organization, eligible to receive tax-deductible contributions.

Some charities do not qualify for QCDs:

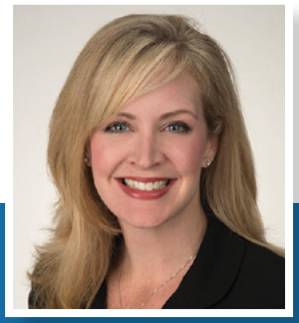
- Private foundations
- Supporting organizations: i.e., charities carrying out exempt purposes by supporting other exempt organizations, usually other public charities
- Donor-advised funds

Tax reporting

A QCD is reported as a normal distribution on IRS Form 1099-R for any non-Inherited IRAs. For Inherited IRAs or Inherited Roth IRAs, the QCD will be reported as a death distribution. Itemization is not required to make a QCD. Since the QCD amount is not taxed, you may not then claim the distribution as a charitable tax deduction. When making a QCD, you must receive the same type of acknowledgement of the donation that you would need to claim a deduction for a charitable contribution. Your financial advisor can help you determine if both your IRA and charity qualify for QCDs.

Like any challenge we face, there is an opportunity to demonstrate our true identity through our love for humanity. There are countless organizations meeting the needs of those who have suffered the most. You may already be blessed by serving with your time in this capacity. The QCD provides a tax efficient way to allow your resources to help as well and we all know that it is better to give, than to receive.

Mark Dutram, CPWA®, CFP®, AEP® President, Wealth Advisor, Bayview Private Wealth



Women and Finances: The Three P's

BY REGIONS PRIVATE WEALTH MANAGEMENT: CYNTHIA VILLANOVA, CWS, VP, WEALTH ADVISOR; LESLIE STRICKLIN, CWS, VP, WEALTH ADVISOR; AND JASON WALKER, CTTFA, VP, TRUST ADVISOR AT REGIONS PRIVATE WEALTH MANAGEMENT

Women are taking an ever-larger role in managing the family finances these days, and that's something everyone can celebrate. Despite out-moded stereotypes to the contrary, I think women are often less emotional than men when making financial decisions, and better able to avoid rash decisions and stick to a solid financial strategy.

> ***I suggest women get up to speed financially by following The Three Ps: Be proactive, be present, and be prepared.***

All of this suggests that the women of today are adding real value when it comes to molding the financial future for themselves and their families. At Regions, we want to educate, equip and empower women to have the confidence to take control of their financial situation, even if they have previously sat on the sidelines. It is crucial that women take an active role in their finances since baby boomer wives can expect to outlive their husbands and inherit the couple's assets, often living another 15–20 years.[1]

In the event that the unthinkable happens, it can be overwhelming trying to catch up at a difficult emotional time. I suggest women get up to speed financially by following The Three Ps: Be proactive, be present and be prepared. [SM]

1. Be Proactive.

Become informed—before things happen.

Educate yourself on the basic elements of personal finance like retirement plans, budgets and different types of investments. It's not hard to learn; the important thing is to dive in. Visit regions.com/hervisionherlegacy, where you'll find easy-to-read articles, videos and infographics on topics ranging from saving for retirement to combining finances. Seek out women you know and trust and ask them, "What are you doing to invest in yourself?" If they're comfortable talking about it, learn from one another.

2. Be Present.

It's important to stay actively involved in and be aware of your family's finances and long-term plans. That means having honest family financial discussions in which you talk about where things stand right now and where you want to go.

Participate in conversations and meetings with your Wealth Advisor, and don't be afraid to ask questions.

3. Be Prepared.

When you're dealing with a crisis, the last thing you need to do is search for documents. Assemble a binder with important paperwork, user IDs and passwords. Have a contact list with all of your advisors, such as your Wealth Advisor, insurance agent, lawyer and tax specialist, and the best way to reach them. You can tell a trusted family member where to find this information in an emergency, and keep it in a safe deposit box. The more prepared you are, the less likely you are to make a rash decision that you'll regret later.

If you find yourself facing a difficult situation, give yourself time before making major decisions.

Equipped with more knowledge, you'll know that you can handle it. How you emerge from tough times—especially when you're the one in charge—depends on being prepared, taking responsibility and knowing enough to trust yourself.

[1] "Older Women," Administration on Aging, May 2000.

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KEY CONSIDERATIONS WHEN CREATING YOUR ESTATE PLAN

As a wise money manager, you likely already have an estate plan in place, including a will and financial powers of attorney. There are numerous other tools you can use to help ensure your wishes are carried out, your assets are safeguarded, your family is protected and estate taxes are minimized. Below, we review several such advanced strategies worth considering.

Trusts: Asset protection

When someone is ready to go beyond the basics with their estate plan, trusts are one of the first tools that come into play. They can help protect assets during your life and after your death, help your heirs to avoid probate and potentially mitigate estate taxes. Since a third-party trustee can manage trust assets and disbursements, this can be a smart a way to pass assets on to minors (who cannot inherit directly), special-needs persons and beneficiaries who may not be able to responsibly manage large amounts of money.

Gifting: Estate reduction

If estate taxes are one of your top concerns, then reducing the size of your estate may be helpful. For instance, gifting money while you're still alive could be an effective tactic. For 2020, you and your spouse may each be able to give up to $15,000 per year, per recipient, potentially reducing your estate value without paying any gift tax. The gift is also typically tax-free for the recipients. Above and beyond this amount, you may be able to give up to $11.58 million in your lifetime without paying gift taxes. In addition, you can generally pay another person's educational or healthcare bills, with no dollar limit, and without any gift tax consequences as long as you pay directly to the biller.

Family Owned Entities: Asset distribution

A family owned entity allows multiple family members to jointly own assets. Typically, older family members contribute the asset — often real estate — and retain management control. Younger family members may have economic rights, but limited management and transfer rights. A variety of entity types can be employed each having various benefits, which may include certain tax benefits. Your legal and tax advisors can help you choose the best entity for your circumstances.

There are numerous other ways to bolster your estate plan. In the Hancock Whitney Private Wealth group, we serve our clients through a team approach to provide a holistic strategy to provide insights and guidance on your options. Our Private Bankers, Trust Advisors, Wealth Advisors and Hancock Whitney Investment Services professionals come together to create a plan that fits your unique needs and offers the maximum advantage to both you and your beneficiaries.

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Your dreams inspire us.

We're inspired by the strength, resilience and values of this Gulf South region we call home, and we're passionate about creating opportunities for people and communities. Ready to reach for your dreams? Let's talk today.

Your Dream. Our Mission.

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Effect of “Grey Divorce” on Your Estate & Financial Plan

As an attorney and financial advisor, I’m fortunate to have a unique perspective on trends in both the legal and financial world. Unfortunately, an increasingly common trend I am experiencing amongst retirees is the phenomenon known as “grey divorce.”

Andrew K. McDowell,
Esq. CFP®, CDFA®

A couple can spend decades together raising a family and supporting each other's careers only to decide to divorce later in life. In fact, the divorce rate for Americans ages 50 and older has doubled in the past 30 years. And while the financial implications of divorce are fairly commonly known, the estate planning implications often have long-lasting effects and are more difficult to parse out.

Prior to filing for divorce, spouses who would be considered "grey divorce" litigants should consult with both legal counsel and their own independent financial advisor and/or tax professional. In my experience, it is common for one spouse to take on the "financial head of house" role during a marriage and the other spouse to assume most other responsibilities. However, it is imperative that both parties have a clear and transparent understanding of their estate and financial status prior to moving forward with divorce proceedings. Having this knowledge will not only expedite the proceedings themselves but will aid each spouse in making necessary changes to their estate and financial plans following the divorce.

During the divorce proceedings each litigant should be prepared to make preemptive changes to their estate and financial plans. For example, should one spouse pass during the divorce proceedings, regardless of the status of any pending or ongoing divorce litigation, the decedent spouse's current estate plan (which, if executed earlier in the marriage, usually names the surviving spouse as the primary beneficiary) will control the distribution of the decedent spouse's estate. Obviously during divorce litigation earlier in life, the likelihood of an unexpected passing is relatively low. But as the age of a divorce litigant increases, the possibility of an unexpected passing, especially during a particularly litigious divorce proceeding which could last many months or even years, increases dramatically.

Astute litigants, once they

decide to move forward with divorce proceedings, can change their estate planning documents to limit the assets a soon-to-be ex-spouse can receive should they pass during the divorce litigation process, but they cannot fully disinherit their spouse from their estate plan until the divorce is final. That having been said, many "grey divorce" litigants will move forward with proactive changes to beneficiary plans on investment accounts, pension assets and insurance policies prior to the divorce being finalized. While perfectly legal, these changes could create even more confusion (or even cause a breakdown in the divorce process), so be sure to consult and coordinate with your legal and financial professionals prior to moving forward.

After a "grey divorce" is finalized, the law treats an ex-spouse as if he or she had passed at the time of the dissolution of the marriage. So, if a divorce litigant made no changes to their estate plans during the proceedings, then no changes are technically necessary after the divorce is complete. However, it is usually a good idea to revisit your estate plan following a divorce to change limited power of attorney holders, designated healthcare surrogates and personal representatives on other important documents.

One thing is certain, as the number of "grey divorces" increases in the United States, divorce litigants need a team of professionals to help them during what is likely to be one of the most important estate and financial planning periods of their lives.

WHY WAIT?

Time to start planning

BY LARA DALTON, CFP®

We cannot believe it has been 9 months since COIVD-19 was first detected in the United States and life as we know it has changed forever. Things we never had to think about before are our new normal. A natural byproduct of this, is the literal pause in many areas of our lives, especially with the upcoming election around the corner and the looming uncertainty to follow. But something that has not changed, or could be more important than ever, is the need to navigate the current financial landscape.

With the environment changing so rapidly, it is hard to find a place to start. To avoid missing an opportunity, here is a list of some of the items we have worked through with our clients:

1. Low Interest Rate Environment

- ***Mortgages*** — Some major banks offer a one-time rate adjustment to your mortgage. You might have to pay a fee up front, but you are able to reduce your mortgage rate without the hassle of doing a total refinance and going through underwriting. If this is not an option, it is a good decision to weigh the costs of doing a refi vs. your current mortgage rate. This could lead to big savings compounded year over year.

- ***Intrafamily loans*** — The IRS publishes rates every month known as Applicable Federal Rates (AFR), and these dictate the amount of interest needed to be paid for a loan to not be considered a gift. These rates are at unprecedented lows, between 0.14% -1.00% (September 2020), depending on the term. If you currently have any of these loans outstanding, a refinance should be reviewed. This is also a great opportunity to help a child purchasing their first home.

- ***Debt Review/Consolidation*** – The 2017 Tax Cuts and Jobs Act reduced the interest you could deduct on total mortgage debt on your first and second home from $1 million to $750,000. With the Fed not expected to raise rates until 2023, it may be a good time to pay down a portion of your current mortgage or reduce your overall margin balance with a collateralized line of credit. While you give up the rate certainty of a longer-term mortgage, these lines of credit rates are materially lower and, if structured properly, could have the opportunity to have the interest be fully deductible.

2. Estate & Gift Tax Exemption – "Use it or Lose it" -

If Democrats hit the Trifecta in November, the current 2020 exemption of $11.58 million/per person will be on the chopping block before the 2026 phaseout.

- ***SLAT*** - To take advantage of the exemption now, maybe consider a Spousal Lifetime Access Trust (SLAT) if financially feasible. A SLAT is an irrevocable trust set up by one spouse (grantor) for the benefit of the other spouse, their children, grandchildren, etc. This allows assets to be used for the other spouse's support, leaving the grantor with certain indirect access to income and assets.

While our current situation is far from ideal, do not let these hesitations stall you and your family's financial future. The time is now to start planning. If you would like to further discuss your personal financial situation, please do not hesitate to reach out to me at (850) 270- 8122.

THE DIRTY SIDE

of Estate Planning and Asset Protection – Real Estate!

by Kenneth R. Fountain, Esq. | fountain@fountainlaw.com

Most of my clients contact me about what to do with their "dirt" – what to do with their Real Estate!

Our Home is the most significant asset for planning our estate. We want to plan our estate to make sure that the Home stays in the family and serves as a source of income and opportunity for future generations.

Many of us have real estate investments, second homes, and business properties to consider when planning our will and estate. How do we protect the family, the business, or the estate from the risks of owning rental and vacation properties? What happens to the business property in the event of death or disability of a key owner or manager of the business? Can the property be transferred without long and expensive Probate proceedings?

As a **Florida Bar Board Certified Real Estate Lawyer** when clients bring me their "dirt" issues I advise my clients not just about their *Will and Estate Plan* but also their *Business Plan, Asset Protection Plan and Personal Wealth Plan*.

Florida Homestead Law provides broad protections of the primary residence against the claims of creditors regardless of value. The Florida Constitution provides these protections during your lifetime and also in favor of surviving spouses and minor children. Florida law also provides benefits limiting the amount that your homestead property taxes can increase each year. However, these benefits come with restrictions on how the homestead can be conveyed during your lifetime and devised when survived by a spouse or minor children.

Property can be held as **Joint Tenants with Full Rights of Survivorship**. Title automatically conveys to the surviving owner upon the death of the co-owner and avoids Probate but the property may become subject to the claims of creditors of the surviving owner.

The **Enhanced Life Estate** or **Lady Bird Deed** enables the owner to retain title over the use of the property while naming the beneficiary who will take title upon the death of the owner. This deed avoids Probate and limits the exposure of the property for liabilities to creditors.

An **Irrevocable Trust** or a **Qualified Personal Residence Trust (QPRT)** can effectively remove and reduce the valuation of the real property for estate and gift tax purposes. The use of a QPRT can be beneficial to protect against the claims of creditors and when the property will continue to be used by family members after death but careful planning is needed to avoid future capital gains and planning for liquidity.

A **Revocable Living Trust** can effectively avoid the need for Probate and include plans for the event of disability during the owner's lifetime. The Revocable Trust the owners can specify who will take their place as Trustees of the Trust in the event of death or disability.

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Business and Investment Property can be held in **Limited Liability Companies** to limit exposure to liability from creditors and from operating risks of property ownership. These entities also survive the death of the owner and avoid Probate to transfer ownership of real property.

The **Florida Land Trust** combines all of the potential benefits of using a Trust, LLC, FLP, and even for Homestead property. The Florida Land Trust allows the owner to remain confidential, to maintain control over the property, to avoid Probate, and to protect the beneficiaries from the claims of creditors.

Before you buy or sell any real property make certain that you have consulted with a Board Certified Real Estate Attorney to avoid any future "dirt" issues for you and for your family.

FOUR TIMES YOU SHOULD REVIEW YOUR BENEFICIARY DESIGNATIONS

Many of us take a set-it-and-forget-it approach to beneficiary designations on retirement accounts, life insurance policies, wills, and trusts. We create the document, we choose a beneficiary, and we consider the work complete. But the truth is, many life-changing moments are times to thoroughly review those beneficiary designations to make sure they're up to date.

Travis Huber, IRA Product Manager for Wells Fargo Advisors, lists four life events that should trigger beneficiary reviews. He also notes common mistakes to avoid.

WHEN TO REVIEW YOUR BENEFICIARY DESIGNATIONS

When you divorce or remarry. At these milestones, many people remember to update their wills, but they may forget about other accounts such as IRAs and life insurance policies. "You've got to rethink everything," Huber says. "If you forget to update a document, the beneficiaries may not be your kids or new spouse as you prefer. Instead, your ex-spouse could wind up as the designee."

When you have a child or a grandchild. The time that your family grows might be the time to consider making a child a beneficiary. You can do this individually within a policy or account, or you may want to consider using a trust. You should also revisit primary/secondary IRA beneficiary designations when a child becomes a legal adult, Huber says. If you want several children to split funds from your IRAs, make it clear in your designations. Legally, a sole beneficiary is not obligated to share funds with a family member you haven't named as a beneficiary. Even if the beneficiary decides to do so, it could trigger a gift tax for the recipient.

LIFE-CHANGING MOMENTS ARE TIMES TO THOROUGHLY REVIEW BENEFICIARY DESIGNATIONS TO MAKE SURE THEY'RE UP TO DATE

When a beneficiary dies. Some individuals may outlive their beneficiary, whether it's a spouse or a child. If, for example, a deceased person is named in your life insurance policy as a beneficiary, it could pose complications. "Even if you had named contingent beneficiaries, it's still better to have the paperwork updated," Huber says. "That will mean less time and effort to get those benefits to the right recipient."

When beneficiaries' financial needs change. As time passes, your beneficiaries' financial circumstances may evolve. Maybe you named your dependent children and your spouse equal beneficiaries on an IRA. Now those children are adults with successful careers; they no longer need the money as much as your spouse would. Make sure your beneficiary designations reflect those changing needs.

TWO COMMON MISTAKES TO AVOID

Conflicting designations. Huber sees this often, and it can make your intentions unclear. For example, perhaps you established an IRA when you were younger and named a sibling as a beneficiary. But years later, you created a will dividing your assets between your spouse and your children. However, beneficiary designations on IRAs and retirement plans supersede what's stated in a will or trust, Huber says. "Your spouse and children can try to use their interest in the will or trust to gain IRA assets; however, the actual IRA designated beneficiary will likely remain in control of the inherited IRA assets."

Incomplete designations. "Sometimes you put your wishes on paper, but maybe you didn't sign the paper, or you forgot to submit it," Huber says. "This would likely create confusion, perhaps cause challenges and delay or prevent passing the assets to the person you want to receive these funds."

Finally, whenever you review, take a holistic approach to beneficiary designations—reviewing all of your accounts together, instead of one at a time—because there can be a ripple effect. "If you change one, it might change what you want to do with the others," Huber says.

This article was written by/for Wells Fargo Advisors and provided courtesy of Christopher Poate, CFP®, Senior Vice President – Investment Officer, in Miramar Beach, FL. He can be reached at 850-837-5366.

Estate Planning Day

presented by the Estate Planning Council of the Emerald Coast

SPONSORED BY
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Thursday, October 22, 2020

FREE ADMISSION, NO RSVP REQUIRED

Room 132/133 Student Services Northwest Florida State College
100 E College Blvd., Niceville, FL 32578

SCHEDULE OF EVENTS

8:15 AM
Opening remarks/Sponsor statements

8:30 - 9:20 AM
What happens after you pass away?
Intestate, testate, trust, final expenses,
real property, taxes, basis adjustments, etc.

9:20 - 10:10 AM
New Laws Affecting Planning
Tax Cuts and Jobs Act, Secure Act, Cares Act

10:10 - 10:25 AM
Break

10:25 - 11:15 AM
Estate Planning for Blended Families
and Non-Traditional Families

11:15 AM - 12:05 PM
Will/Trust Disputes -
What happens and why, case study?

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ESTATE PLANNING COUNCIL OF THE EMERALD COAST

The Estate Planning Council of the Emerald Coast has been recognized as a 5 Star Council by the National Association of Estate Planners & Councils as part of the Leonard H. Neiman and Walter Lee Davis,Jr. Council of Excellence Award program. This honor recognizes estate planning councils that have demonstrated a high level of achievement in areas critical to a successful membership experience. The Council of Excellence Award is named for two individuals who truly sought to strengthen the bond between NAEPC and its affiliated councils during their terms on the board. Walter Lee Davis, Jr. served as president of the association in 2008 and was instrumental in forming the Council Relations Committee, a group of volunteer members who are charged with being a liaison between affiliates and the national association. Leonard H. Neiman served the association as a board member for over fifteen years and worked tirelessly to gather information about estate planning councils from around the country. The Estate Planning Council of the Emerald Coast, Inc. (EPCEC) is the professional "organization of choice" for multi-disciplinary estate planning professionals from across Florida's Emerald Coast. Members include accomplished Estate and Elder Law Attorneys, CPA's, Financial Advisors, Insurance Consultants and Trust Officers. The EPCEC is an affiliated council of the National Association of Estate Planners & Councils. Through a series of formal meetings and relaxed socials, we strive to remain at the forefront of developments in the field and embrace the "team approach" to estate planning. We know clients benefit greatly when their advisors collaborate.

BENEFITS OF MEMEBERSHIP

- Outstanding networking with members of multiple disciplines at every meeting
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- Opportunity to advertise and submit an article for the October Estate Planning Supplement in NWFL Daily News
- Your name and contact information in the EPCEC directory in NWFL Daily News Supplement
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- Opportunity to participate in EPCEC Estate Planning Awareness Day activities
- Access to a wide array of NAEPC Resources like:
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  - Robert G. Alexander Webinar Series
  - ACTEC Family Estate Planning Guide
  - Wolters Kluwer Tax & Accounting – CCH Publications

For more information: emeraldcoastestate.org/ or
call Denise Harris, Chapter Administrator 251.401.7936

WHO GET'S THE HOUSE?

BY LISA JO SPENCER, ESQUIRE

Florida's homestead law can create many issues for families when loved ones pass away. (For purposes of this article, we are assuming that the homestead was owned by one spouse individually and not as husband and wife.) Most people are familiar with the property tax savings families can receive if they meet certain criteria, but homestead distribution after death provides different benefits. One of the most important benefits is that creditors of the decedent (other than a mortgage holder) cannot levy against it. In other words, family members do not have to worry about selling the homestead to pay final expenses, medical bills, or even credit card debt.

Property qualifies as homestead when the owner uses it as his or her permanent residence, regardless of whether it has the property tax exemption. If the owner had moved into an assisted living facility or a family member's home and was living there at the time of death, there may be an issue regarding whether the decedent had abandoned the homestead, but this is not always a disqualifier. Also keep in mind that if the residence listed on the death certificate is not the homestead, the court may deny exempt homestead status.

Distribution of the homestead upon death is not always intuitive. If the decedent is survived by a spouse and/or minor child(ren), it cannot be devised by a will or trust to other persons. By law, the surviving spouse receives a life estate (meaning he or she can live there until their death) and the minor child(ren) receive(s) the remainder. But, if the surviving spouse acts timely, he or she could petition to receive a one-half interest in the homestead (the children receiving the other one-half interest). If there are no minor children, then the decedent may devise the property through a will or trust only to his or her spouse. If there is no surviving spouse or minor child(ren), the owner may devise the property to anyone; however, depending upon to whom the property is devised, the protection from the claims of creditors may be lost.

Planning for the distribution of the homestead may be particularly challenging in blended families since one spouse may have purchased the home prior to marrying the current spouse, and the owner may also have children by a previous marriage. The owner is bound by the rules above (he or she can only devise a life estate to the current spouse with the remainder to the minor children). If the owner's youngest child is already eighteen, the owner can only devise the homestead to his or her spouse. Neither of these scenarios may be what the owner desires. The law allows a spouse to waive his or her rights to the homestead in either an antenuptial/prenuptial agreement or disclaimer, which may alleviate these issues, but both parties must fully understand the rights being relinquished if doing so. If a married couple desires for the homestead to pass directly to the survivor of them, the best way to accomplish this is by purchasing the homestead as tenants by the entireties (i.e. as husband and wife). However, this is not always an option.

Another issue that can arise during the lifetimes of the spouses is if the owner wishes to sell or mortgage the property during their marriage. For the owner to do so, the other spouse must consent. Although this is usually not an issue, it is something to consider.

Because of Florida homestead law's complicated nature, one should always consult an estate planning attorney in all matters which involve the homestead.

LJS

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