WEALTH STRATEGIES

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Charitable IRA Rollover Provision May Be Extended by Congress

Originally enacted as part of the Pension Protection Act of 2006, the American Taxpayer Relief Act of 2012 extended the $100,000 IRA charitable rollover rules through 2013. As a result of the extension, an IRA owner who had attained age 70½ was allowed to make a tax-free distribution from a traditional or Roth IRA on or before December 31, 2013 directly to organizations that qualify under Internal Revenue Code (IRC) Section 170(b)(1)(A) (i.e., a public charity). Because an IRA charitable rollover distribution would not be included in an IRA owner’s income, it was an extremely tax-efficient way of making a lifetime gift.

Furthermore, an IRA distribution to a charity where the IRA owner had an outstanding pledge would be treated as a qualified charitable distribution and not as a prohibited transaction, per Internal Revenue Service (IRS) Notice 2007-7. The Department of Labor, which has interpretive authority over the self-dealing rules, advised the IRS that a qualified charitable distribution made by an IRA trustee directly to a qualifying charity would be treated as received by the IRA owner (i.e., it would not constitute self-dealing, a prohibited transaction).

Although this provision expired on December 31, 2013, there is always the possibility that Congress will approve legislation to extend the provision retroactively.

Beneficiary Designations: Naming a Charity as a Beneficiary of an IRA after Death

Naming an appropriate beneficiary of an IRA is critical for many situations including divorce, minor children, and charitable gifting. The choice could have a significant impact on taxes and the amount of assets remaining for heirs.

For those individuals who have charitable goals, some of the advantages of naming a charity are:

- No estate tax—the donation qualifies for federal estate tax charitable deduction
- No income tax to donor or donor’s estate
- Charity is not taxed on proceeds

The “Beneficiary Designation Form” for an IRA governs who will receive the IRA assets after the owner dies. Particularly for high net worth investors, it is most desirable to work with a financial institution that accepts customized IRA beneficiary designations. As an example in the table below, BNY Mellon Wealth Management worked with a wealthy individual who initially planned to leave her $500,000 IRA to her son after her death, and had an estate plan that provided for shares of stock of a specific corporation worth $500,000 to be donated to a named charitable organization upon her death. The mother in this case was especially concerned because her son was a spendthrift and she was afraid that he would exhaust the IRA funds soon after her death. As a solution to this dilemma, we (in collaboration with her attorneys and accountants) worked with the mother to leave the IRA to charity and the stock in trust for her son.

For more information regarding investment and wealth planning strategies or if you would like to learn more about BNY Mellon Wealth Management, contact Heidi Benavidez at 949.253.5014 or heidi.benavidez@bnymellon.com.

Tax Benefit of Naming a Charity as an IRA Beneficiary

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<th>Stock to Charity and IRA to Son</th>
<th>IRA to Charity and Stock to Son</th>
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<tr>
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<td>NET BEQUEST</td>
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Source: BNY Mellon Wealth Management

*Assumes a blended federal and state income tax rate of 40 percent.

**Note that the son’s shares of stock also receives a step-up basis when the decedent dies.
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Social Security is one of the most popular programs the federal government has ever put into place. In total, about 57 million Americans received retirement, disability, or survivors' benefits during 2012 at a cost of about $786 billion. Social Security retirement benefits were received by nine of 10 people age 65 or older during 2012 and were a major source of income for more than two-thirds of retirees.

It may not be surprising in light of the financial challenges Americans have faced during the past few years, but the percentage of people claiming Social Security retirement benefits at the earliest possible age increased by more than 2 percentage points between 2007 and 2009. According to one expert, 41 percent of men and 46 percent of women receive the smallest possible retirement benefit available to them because they claimed early at age 62.

While some Americans may have had little choice about when to claim benefits, it's important for those who do claim these benefits to plan and make informed decisions because Social Security retirement benefits are more complex than many understand. On his website, Boston University Economics Professor Laurence Kotlikoff pointed out:

"Social Security offers retirement, spousal, widow, widower, child, mother and father, and divorcee benefits. It has highly complex benefit formulas which include wage indexing of past covered earnings, benefit-specific reduction formulas for collecting benefits early, an earnings test, deeming provisions that limit when married and divorced people can take particular benefits, delayed retirement credits, credits for getting hit by the earnings test, indexation of benefits to inflation, a family benefit maximum, a "file and suspend" option permitting you to collect free spousal benefits while you defer your retirement benefit, the option to start your benefits early, suspend them, and restart them later. Windfall Elimination and Government Pension Offset provisions that limit retirement and spousal benefits available to workers with non-covered employment histories, and the list goes on."

Is it worth the effort?

Some Americans are skeptical about whether Social Security benefits will be available when they reach retirement age. Social Security’s reserves, which were built up over three decades when the system took in more revenue than it paid out, are expected to be depleted sometime in the early 2030s. Once reserves run out, the tax revenue that funds Social Security will cover just three-fourths of scheduled benefits.

There are a variety of options that might help keep Social Security viable including revising benefit formulas, raising taxes, raising the cap on taxable earnings, increasing retirement age, or some combination of all of these. Regardless of the challenge and the expense, the vast majority of Americans want to see the program continue, according to a 2013 study by the Pew Research Center. In fact, 90 percent of Americans want spending on Social Security to remain as it is or increase.

Americans’ reasons for wanting to preserve Social Security often are personal; however, the AARP (formerly the American Association of Retired Persons) recently argued there are economic reasons for keeping the program in place, as well. A study released by the AARP Public Policy Institute suggested Social Security payments during 2012 supported about:

- $9.2 million jobs
- $1.4 trillion in economic output (goods and services)
- $774 billion in value added (gross domestic product)
- $370 billion in salaries, wages, and other compensation
- $22 billion in tax revenues for local, state, and federal governments

The study also pointed out a significant portion of these benefits might be offset if the Social Security program was modified. In that circumstance, payroll taxes that are currently withheld from workers’ paychecks would drop and the take-home pay of many Americans would increase. It is uncertain whether the money would be spent or saved.

Social Security planning

Whether you believe Social Security retirement benefits could or should be modified, it’s important to understand the options available to you, as well as the role benefits may play in your overall retirement plan. In some cases, particularly when it comes to potential benefits, maximizing social security income can be quite complex. Here are some basic questions you may need to answer before you make any decisions:

- At what age can you receive full Social Security retirement benefits? (Hint: If you were born after 1943, it’s not age 65.)
- How much will your potential retirement income change if you choose to receive benefits early or later? (If you had maximum taxable earnings and live to age 85, the difference between early and full benefits received over a lifetime is tens of thousands of dollars. The difference between early and late benefits is more than $150,000.)
- Can your spouse, who doesn’t work outside the home, receive Social Security benefits while you’re alive?
- If you and your spouse both work, when should you apply to receive the highest benefits possible?
- How will earnings from work during retirement affect my benefits? (Hint: It depends on the age at which you take benefits.)

Recent studies have found few people understand the dollar value of the decisions they make about Social Security benefits. Social Security planning ensures you understand the amount of income Social Security may provide in continued on page B-40

Social Security Planning:
Maximizing Retirement Income
by Loreen M. Gilbert, CIMA, AIF, CRC, CLTC, President, WealthWise Financial Services

Social Security offers retirement, spousal, widow, widower, child, mother and father, and divorcee benefits. It has highly complex benefit formulas which include wage indexing of past covered earnings, benefit-specific reduction formulas for collecting benefits early, an earnings test, deeming provisions that limit when married and divorced people can take particular benefits, delayed retirement credits, credits for getting hit by the earnings test, indexation of benefits to inflation, a family benefit maximum, a "file and suspend" option permitting you to collect free spousal benefits while you defer your retirement benefit, the option to start your benefits early, suspend them, and restart them later. Windfall Elimination and Government Pension Offset provisions that limit retirement and spousal benefits available to workers with non-covered employment histories, and the list goes on."
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Secure Ways for Family-Owned Businesses to Provide for a Comfortable Retirement

by Edward Mora, Regional Manager, Bank of the West

For many business owners, retirement planning is tied to succession planning, and it can be a challenge to determine which takes priority: retirement security or a successful succession strategy.

1. Start with a comprehensive financial plan. Fundamentally, business owners should approach retirement planning as others would, starting with a comprehensive financial plan. In executing the plan, owners have access to a wider range of strategies and solutions.

At Bank of the West, we begin with a dynamic discovery process, guiding the business owner to define financial and non-financial goals while identifying obstacles.

Next, we create a baseline financial picture that includes a detailed net worth and cash flow statement, in addition to an in-depth analysis of investment asset allocation and location. Then we develop a strategy that meets the owner’s goals and time frame.

We recommend planning for retirement as early as possible and, for business succession, at least five to seven years prior to the liquidity event.

2. Think about how to meet your goals in a way that considers both family and employees. When developing retirement strategies, business owners often consider the needs of their employees at a level almost equal to their family.

Strategies can include establishing defined benefit plans and/or non-qualified deferred compensation plans, which can defer a larger share of earnings to the owner while providing additional retirement vehicles for key employees. Additionally, certain corporate entities may allow for the purchase of long-term care coverage, a key component of tax-advantaged retirement planning, for both the owner and employees.

3. Think about the multiple ways in which succession can be accomplished. To enable employees to purchase part of the business while maintaining a controlling interest, an Employee Stock Ownership Plan (ESOP) may be a viable solution.

To keep the business in the family, owners might consider gifting business interests. One possible strategy is an installment sale to an Intentionally Defective Grantor Trust (IDGT), which can also accomplish key estate planning goals.

4. Leverage your business assets to create cash flow. Often, business assets can be structured to create an income stream to the owners or other designated parties.

A business property, such as a commercial building, may be held in a separate Limited Liability Corporation (LLC) and produce rental income in retirement, if not included as part of the sale. Another strategy involves establishing a Charitable Remainder Trust (CRT) to sell an appreciated, low basis business asset without capital gains and taking income for a pre-determined number of years, at which time the assets go to a charity of the business owner’s choosing. Part of the income can be used to purchase insurance inside of an Irrevocable Life Insurance Trust (ILIT) to replace any lost wealth that went to charity.

With comprehensive and diligent planning, business owners can maximize the value of their business for retirement while preparing the business for a successful transition to a new ownership structure.

The right solution requires defining goals and finding the most effective way to leverage business assets to fund retirement while preserving a strong balance sheet through a business succession.

Investment and Insurance Products:

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<th>NOT BANK GUARANTEED</th>
<th>MAY LOSE VALUE</th>
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<tr>
<td>NOT A DEPOSIT</td>
<td>NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY</td>
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Edward Mora
Regional Manager Edward Mora leads Bank of the West's Southern California and Southwest Wealth Management teams to ensure affluent and high net worth clients have access to all bank resources, including professionals focused on deposit services, private mortgage banking, trust services, and investment management.

Mora has more than 20 years of experience advising affluent and high net worth business owners regarding wealth planning, investment solutions, and private banking. He is active in the community, serving on the boards of Project Access, United Cerebral Palsy of Orange County, and the UCI Merage Center for Investment and Wealth Management. Mora can be reached at edward.mora@bankofthewest.com.

About Bank of the West Wealth Management
Bank of the West Wealth Management Group’s Orange County market team works to create long-term advisory relationships with clients by partnering with them to provide financial solutions to their personal cash management, liquidity, investment, and trust administration needs.

The group is part of BNP Paribas’ global wealth management business of more than 6,000 professionals in 30 countries worldwide with over $1 trillion in assets under management (including assets held by subsidiaries) in the United States and $377 billion (€288 billion) in assets under management globally as of December 31, 2013.

Bank of the West Wealth Management Group provides financial products and services through Bank of the West and its various affiliates and subsidiaries. Securities and variable annuities are offered through BancWest Investment Services, Inc., a registered broker/dealer, Member FINRA/SIPC. BancWest Investment Services is a wholly owned subsidiary of Bank of the West and a part of the Wealth Management Group. BancWest Corporation is the holding company for Bank of the West. BancWest Corporation is a wholly owned subsidiary of BNP Paribas. Bank of the West and its various affiliates and subsidiaries are not tax or legal advisors.
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Business Issues in Family Law

by Lonnie K. Seide, Partner, Minyard Morris

My clientele is comprised of high-net worth individuals, many of whom are business owners. Our objective is to resolve cases early and cost-effectively to proactively prepare a case for resolution from day one. People frequently fail to understand how complex family law matters can be. A divorce is often quite similar to the dissolution of a business partnership.

Some family law matters involve complex issues such as the valuation of a business. Businesses are valued using a variety of different methods in family law. The courts generally use a method that captures the “investment” value of the business to the operating spouse. Courts frequently use the capitalization of earnings method and the excess earnings method.

The capitalization of earnings method of valuation has two components: the net adjusted book value of the entity and goodwill. The book value is “adjusted” to reflect economic reality. These adjustments include such things as writing off uncollectable receivables, adding back non-economic depreciation and otherwise adjusting assets on the books to reflect their true current value. Goodwill is generally calculated by determining the total controllable cash-flow of the business, deducting the operating-spouse’s reasonable compensation and deducting a rate of return on the tangible assets of the business. The resulting number is referred to as the “excess earnings.” Excess earnings are capitalized at a rate of 20 percent to 100 percent, or multiplied by a number between one and five, to determine the value of goodwill.

The excess earnings method is an income-based approach which determines the value of the business by capitalizing the normalized income of the business over a period of years.

Another complex issue arises when one spouse owns a business before marriage and the value of the business increases as a result of the efforts of the operating-spouse during the marriage. In this situation, the court must allocate the increase between the separate property and community property of the parties. The increase in the value of a separate property business during the marriage is allocated using one of two methods: Pereira or Van Camp. The Pereira formula provides the owner-spouse with a reasonable rate of return on the value of the separate property business as it existed on the date of marriage. Only if the increase in the value of the business exceeds the value on the date of marriage plus the rate of return would the community share in the increase. This method is used when the increase in value is due primarily to the efforts of the owner-spouse. If, however, the increase in value is due to market conditions, the court may apply the Van Camp formula. This approach analyzes whether the owner-spouse was reasonably compensated for the efforts he or she contributed to the separate property business. If the owner-spouse was reasonably compensated, the community has been made whole and no allocation of the increase in value of the separate property business is allocated to the community.

Many people do not realize that if funds owned before marriage (separate property) are used to acquire assets during the marriage (community property), the separate property proponent may be entitled to reimbursement of the separate property contribution if it can be “traced.” There are two types of tracing. Direct tracing, which is the preferred method, requires the “step-by-step” analysis demonstrating that the separate funds present on a particular date were, in fact, used for the acquisition. An alternate method, known as the family expense method, may be used if the acquisition cannot be directly traced. Under this approach, if the community expenses have consumed all of the community income, the presumption provides that any remaining funds in the commingled account are separate funds. If an asset is purchased at a point in time when only separate funds exist in the commingled account, the asset will be characterized as separate property. Expert testimony of a forensic accountant is necessary to establish either method of tracing.

Tax plays a significant role in many aspects of family law cases. Since family law involves both income and assets, debts and expenses and transfers from one spouse to another, the following issues may arise:

- Allocation of post-separation and community income
- Family support/spousal support
- Capital gains
- Capital loss carry-forward
- Recomputation (recapture) of the spousal support deduction
- Recapture of depreciation
- Alternative minimum tax
- Dependency exemptions
- Tax basis
- Joint and several tax liability
- Transfer between spouses
- Family residence sale exclusion
- Filing status (single, joint or married-filing-separately)
- IRA rollover and withdrawals
- Retirement interests and Qualified Domestic Relations Orders (QDROs)
- Innocent spouse rules

Tax issues must be identified early in order to properly analyze a case and structure a solution. A judgment can be drafted so as to manage and/or avoid potential tax problems and/or pitfalls.

Many different types of experts may be necessary in family law matters. In the valuation area, the use of forensic accountants, compensation experts, economists, industry experts, equipment appraisers and document examiners may be required. When support is an issue, one spouse may be unemployed or under-employed, vocational experts are utilized for the determination of the earning capacity of a party. Finally, there are many experts specific to the valuation of other assets. For example, real estate appraisers value real property, car appraisers value vehicles, surveyors appraise vessels and other experts value various collectibles (e.g., furniture, art, antiques).

Experts must be retained early to maximize their value to the case. They should be used to help develop an early strategy to rapidly resolve a case, whether by settlement or trial. Working with experts from the outset can be invaluable in developing an early settlement offer or being prepared to participate in a voluntary settlement conference with a private judge. Our goal is to proactively and cost-effectively resolve a case consistently with our clients’ objectives.

Lonnie K. Seide
Lonnie K. Seide graduated from Northeastern University (1982) and St. John’s University School of Law (1985). He was admitted to the New York Bar, and practiced there before relocating to California in 1992. He was admitted to the California Bar in 1992. Lonnie has been named a Certified Specialist in Family Law by the State Bar of California Board of Legal Specialization. He is a Fellow of the American Academy of Matrimonial Lawyers.

Lonnie is listed in Best Lawyers in America since 2012. He has been listed as a Super Lawyer since 2004. He has lectured extensively for the Orange County Bar Association Family Law Section and the Public Law Center of Orange County on Family Law issues, and authored numerous family law related articles.

Lonnie is AV Peer Review Rated (the highest rating) by Martindale.com. Contact Lonnie at 949.724.1111 or lonnie@minyardmorris.com.
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Our retirement plan consulting services include plan design, document creation, plan submission, plan implementation and year on year administration. We provide those services on 401(k), profit sharing and defined benefit plans, both traditional and cash balance and all combinations of those plans. In addition, we consult on fiduciary issues, mergers and acquisition, forensic repair and other compliance situations.

At Jack A. Cross & Associates Inc., we recognize how important our advice is to our clients and we pride ourselves on delivering the level of excellence they expect. And because our commitment is to the successful wealth accumulation of our clients and their employees, all our professionals are focused on thoroughly understanding each client’s needs and delivering results based on a proven service model.

We believe that the best consulting is a process; beginning with listening, then bringing knowledge, technique and experience together in an atmosphere of presence and intention. This work is most often done with the input and assistance of the other professional advisors our clients include like their CPA, attorney and/or financial planner to ensure a thorough and broad-based thought process.

Every day, with every client, our goal is to achieve results.

If you would like to learn more about maximizing Social Security retirement benefits or developing a plan for your financial future, please contact our office at 949.748.1177 or info@wealthwisefinancial.com. Visit www.wealthwisefinancial.com.

Sources:
- http://www.socialsecurity.gov/researchpolicy/research/early-claiming.html
- http://www.ssa.gov/oact/cola/examplemax.html
- http://www.maximizemysocialsecurity.com/content/about
- http://www.ears.aarp.org/gender/general/social-security-assessing-knowledge-of-benefits.pdf (Pages 7, 8, 10, 11, and 76)

SOCIAL SECURITY PLANNING
continued from page B-34

various circumstances and develop strategies that can help maximize the benefits you receive. For couples, making the most of spousal retirement benefits generally requires decisions about when to collect Social Security benefits be coordinated and considered within the context of other retirement income sources.

Financial planning is a process
The pursuit of financial security is an ongoing activity. If your goal is to maximize retirement income, then Social Security planning should be a component of your retirement strategy and overall financial plan. Of course, like any other plan, it may need to be modified as your personal circumstances change or as government regulations are altered.

Longevity is one of the biggest risks as people transition into retirement. Individuals can avoid outliving their retirement assets by having strategies that maximize retirement income. The Social Security Administration reported that 74 percent of those receiving Social Security benefits are taking a reduced amount. Families can make sure various options from Social Security benefits as well as accumulated assets are considered when working with their financial advisor to receive the full amounts from both.

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Year-End Strategies with Loreen Gilbert, CIMA, AIF, CRC, CLTC

Insights with the Experts

**Wealth Management** has many different facets including managing assets, accessing capital, minimizing income tax and estate tax liabilities, maximizing retirement and social security benefits, reducing risks and protecting property. In our dialogue, we meet the Orange County specialists who work in these various aspects of wealth management. As we are now in the last quarter of the year, we will also focus on strategies that can be implemented before year-end.

We begin by looking at an often overlooked area: Property and Casualty Insurance as a wealth management tool. I asked Bill Mecklenburg, President of SES Insurance, the following questions:

**Loreen:** Bill, what are some year-end action items you suggest for people with regards to their property and casualty needs?

**Bill:** Individuals and business owners should examine their risk tolerance as it relates to losses. Insurance is to cover losses that you can't or don't want to cover on your own.

- Most property owners have very low property deductibles, even though they could afford to cover a $2,500, $5,000 or $10,000 loss without changing their lifestyle. Selecting a higher deductible has a relatively quick payback period and the frequency of property losses is very low, so a higher deductible should be considered.

- Excess liability coverage is relatively inexpensive, so consider buying more than you think is necessary. How much liability insurance do you currently have? Is that enough to cover the highest possible loss you can imagine?

**Loreen:** What are some of the top mistakes people make with regards to their property/casualty needs?

**Loreen:**

- **Bill:** People view insurance as a necessary evil rather than looking at insurance as a wealth management/risk management tool.
- **People:** Many people assume all insurance policies are the same and they rarely ask for full coverage comparisons between markets. The insurance industry remains relatively soft, so it is worthwhile to examine every exclusion or sublimit included in your current coverage to see if the carrier will remove it or another market will offer broader coverage terms for the same pricing.

**Loreen:** Why should property owners consider holding and insuring their properties through their bank's trust department?

**Bill:** Individuals can access the insurance buying power of banks to secure highly competitive pricing with coverage that far exceeds the coverage typically available in homeowner policies. The beneficiaries of the trust reap the benefit of the bank's professional risk manager who negotiates terms and conditions for hundreds of properties for which the trust department has a fiduciary responsibility to protect. As individual property owners, that buying power simply doesn't exist.

For a traditional wealth management perspective, we turn to Shannon Kennedy, Regional President of Southern California for BNY Mellon Wealth Management:

**Loreen:** Shannon, what advice do you have for individuals still concerned about the economy?

**Shannon:** It is critical that investors not make decisions out of fear and emotion in reaction to short-term market swings. We tell our clients that wealth planning is a long game and that they should take a strategic view of investing to overcome the market swings and economic ups and downs. A seasoned wealth advisor who has been through all kinds of market conditions is likely to have a broader perspective that can help a client avoid making rash decisions.

**Loreen:** How can working with a wealth management firm help people grow and protect their assets?

**Shannon:** No individual has all the expertise and insight to manage all the complexities of wealth, tax, estate and investment planning. A wealth management firm with a wide range of wealth and investment planning expertise and a long tradition of serving wealthy individuals can provide the critical insights and services that help you avoid risk while growing your assets.

**Loreen:** What are the top three mistakes you see people make with regards to wealth management?

**Shannon:**

- **Lack of an integrated wealth and investment plan.** People often work in a silo when they think about their retirement income after separation. This decision should be raised with an attorney and a CPA as there may be issues unique to the circumstances.

**Loreen:** What can be done to protect the finances for children?

**Lonnie:** The filing of a motion to bifurcate may allow a party to dissolve the marriage before the property division occurs. This would allow a person to file tax returns as a single tax payer, which could result in significant tax savings. If parties don't file their tax returns jointly, each must report 50 percent of the income earned by each spouse before separation (and 100 percent of their own income after separation). This decision should be raised with an attorney and a CPA as there may be issues unique to the circumstances.

**Loreen:** What is a “change of circumstances” after entry of the judgment? Spousal support will likewise be modifiable so long as the court has retained the power to order the modification. A “change of circumstances” may occur when the income of either party has significantly increased or decreased. Generally, the terms of the property settlement cannot be changed unless the entire matter is set aside, which is extremely rare.
At year end, business owners are looking at ways to reduce their tax liabilities. One of the common strategies for year-end planning is to maximize retirement plan contributions. To answer our questions regarding the retirement plan arena, I asked Jack and Jordan Cross, President and Vice President respectively, of Jack A. Cross & Associates, Inc. the following:

Loreen: Jack, what advice do you have for companies wanting to improve their retirement plan offering?

Jack: Here is the process we recommend:
- Determine your goals:
  1. Is it a benefit program to attract and retain great employees?
  2. Is it asset accumulation for the business owner?
  3. Is it for a current tax deduction?
- Work with a team of professionals. Retirement planning is a complex, rule-driven process. It can produce very satisfactory results, but also can deliver unintended consequences. The retirement plan sections of the tax code are not a place for a business owner or their office staff to venture without guidance.

Loreen: Jordan, how can working with a third party administrator help companies improve their retirement plans?

Jordan: A Third Party Administrator (TPA), is a professional in the area of retirement plan compliance and operation, not dissimilar to a CPA, only focused on specific sections of the code. A good TPA can assist a business owner in determining what the best plan is to meet their needs and then design it to optimize for those goals. The ongoing role of the TPA is to keep a plan operating on course, in full compliance and up-to-date on all tax changes or other factors that could impact a client’s plan.

Loreen: What are the common errors companies make with regards to their retirement plan compliance?

Jack: We tend to see more errors in 401(k) plans than other plan types as plan sponsors and their HR staff have to bear more operational responsibility for 401(k) Plans than other plans. The most frequent mistakes we see are:
- Late transfer of 401(k) deferrals from payroll to the investment provider
- Lack of loan enforcement
- Missed entry dates and a failure to offer deferral opportunities to eligible employees

In the fourth quarter of the year, many people have just finalized last year’s tax return and they start looking for tax ideas in the current tax year. Ron Stumpf, Partner at ELLS CPAs has the following thoughts for tax planning:

Loreen: Ron, in addition to maxing out on retirement plans in order to reduce taxes, what other tax strategies do you suggest?

Ron: Many people are so focused on current income tax deductions that they overlook the fact that in retirement, they will probably have a tax issue as well. One way to plan for future taxes is to contribute to a ROTH today. While many people do not qualify for a ROTH IRA contribution because of income limitations, everyone can contribute earned income into an after-tax IRA that can then be immediately converted to a ROTH. Taxes are only paid on gains from the time of the contribution to the time of the conversion. In addition, 401(k) plans now have ROTH features available with no limit on compensation for contributions.

Loreen: What end of year strategies are you suggesting for clients with regards to their tax planning?

Ron: Individuals should look at their taxable portfolios to see if there are opportunities for tax loss harvesting. The tax code allows taking gains against losses in order to minimize the taxable gains in a portfolio. In addition, while many portfolios have seen gains over the past few years, people may still have a tax loss carry forward that can go against gains this year. Another consideration is that since the tax code is stable with no anticipation of changes in the next year, there is no reason to accelerate or decelerate income at the end of this year.

Loreen: What one piece of advice would you give someone who is going through an audit with the IRS?

Ron: Do not meet with the IRS alone! In fact, I go on behalf of my clients unless a mandatory interview is required. We address the requests in a timely manner and are prepared with the documentation requested.

An area of wealth management that many people tend to avoid is estate planning. However, estate planning can have both income tax and estate tax benefits. To uncover some of the opportunities around estate planning, I interviewed Nicole Anderson, Principal of Anderson Law Group:

Loreen: What end of year strategies are you suggesting for clients with regards to their estate planning?

Nicole: The Grantor Charitable Lead Trust (CLT) is a popular year-end income tax planning tool for the charitably inclined or those that need an income tax deduction. A grantor Charitable Lead Trust gives the Trustmaker an income tax deduction in the year of the transfer and provides income to the Trustmakers favorite charities for a term of years but allows the Trustmaker to get their assets back at the end of the term. The Trustmaker places assets in trust but instead of the trust paying regular distributions to the Trustmaker, the distributions are paid to the qualified charity for a term of years. At the end of the chosen term, the trust principal plus any accumulation is returned to the Trustmaker. CLT’s are especially attractive for persons who have a large income in the year of the transfer and anticipate lower income in future years since they benefit from an income tax deduction in the high income year. This is an excellent tool for giving to charity without permanently releasing title to the property transferred.

Loreen: How can working with an estate planning attorney help to protect a client’s assets?

Nicole: Asset protection often means considering a combination of irrevocable trusts and Limited Liability Companies or Limited Partnerships to accomplish the goal of protecting hard-earned assets. We notice that clients make the mistake of holding rental real estate in their name or a basic revocable trust. While no asset protection plan provides a 100 percent guarantee, even basic asset protection such as a Limited Liability Company (LLC) domiciled in a state that provides for better creditor protection such as Nevada or Wyoming would provide significant asset protection. In both of these states creditors are limited to a “charging order” as their exclusive remedy. We also use qualified domestic asset protection trusts and establish these trusts in states such as Nevada or Wyoming that allow for self settled trusts for the purposes of protecting your assets. A combination of a domestic asset protection trust and a limited liability company is a good asset protection tool for high net worth individuals looking for some peace of mind and protection for their legacy.

Loreen: Are there any changes in the estate tax law of which people need to be aware?

Nicole: It is critical for 2014 year-end planning, that people understand “Portability” and are aware of IRS Revenue Procedure 2014-18. This election provides a simplified method for the surviving spouse to elect “portability” of their deceased spouse’s unused estate tax exemption amount, even if the death occurred in 2011, 2012 or 2013. To elect portability, the surviving spouse must file a completed and properly prepared estate tax return electing portability (Form 706) by December 31, 2014.

In closing, I hope that you gained some insights from our experts and that this wealth management supplement will help you in your year-end planning.

Loreen Gilbert is a registered representative with and securities and financial planning are offered through LPL Financial, a Registered Investment Advisor, Member FINRA/SIPC.
Has the Time Come to Revisit My Estate Plan?

Estate planning is often seen as a once in a lifetime event. While proper planning can ensure the smooth transfer of assets across generations and promote family harmony, it will not deliver a satisfactory end result unless the estate plan is kept current.

Our mantra is estate planning is dynamic. Successful estate planning requires attention to changes in family circumstances, trust and taxation laws, individual goals and values, business succession events and asset acquisition.

Successful estate planning requires attention to changes in family circumstances, trust and taxation laws, individual goals and values, business succession events and asset acquisition. A good rule of thumb is to revisit your plan every three years or when there is a family event such as a birth or adoption, wedding, death of a loved one, divorce, sale or creation of a business, or acquisition of a new asset such as a home.

More frequent reviews may also minimize inheritance disputes. Estate planning reviews can be a good time to host an intergenerational meeting with your estate planning attorney, financial advisor and CPA. The difference between family harmony and an ongoing feud may be determined by how clearly you communicate with your family and team of trusted advisors.

While these conversations can be difficult, open communication typically minimizes future conflict. Emotionally coping with a loss of a loved one is already stressful. Without a current and complete estate plan in place, families are faced with additional hardships that can make the process overwhelming. Be confident your estate plan is solid and reflective of your current values, goals and family situation.

For more information, email nanderson@andersonlawgroupinc.com or visit www.andersonlawgroupinc.com.

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Year-end is a great time to reflect on what has happened, and look to the year ahead—financially as well as personally. You should capitalize on events that occurred over the year and put your finances on firm footing for next year.

I can make sure your investment plan is up-to-date and that you are on track toward your goals.

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How do I transfer wealth to my children and still retain control of the spendable cash they can access? This is a question I am asked all the time. One idea I recommend is to set up a family limited partnership and use it as a vehicle to purchase real estate. Start by creating the family limited partnership with the children owning 99 percent as limited partners and the parents owning the other 1 percent through an S corporation. The S corporation will be the general partner, and as stated, will be owned 100 percent by the parents. As the general partner, the S corporation controls distributions to all the partners, including the 99 percent owned by the children.

Here is an example of how this works:

Joe has four children. In 2014, he gifts $14,000 to each of them which is the maximum allowed without having to use any of his annual gifting exemption for total gifts of $56,000. On January 1, 2015, Joe gifts each of them another $14,000 for a total of $56,000. In total, his children now have $112,000 in cash. This cash becomes the children’s initial contribution to the newly created family limited partnership. The S corporation contributes $1,131 to maintain the 99 percent/1 percent ownership balance. Joe’s realtor finds a piece of commercial real estate on the market for $4 million. The partnership prequalifies for a loan on the property of $2 million. The property’s rental income will cover the loan payments and other expenses of the property. Joe lends the partnership the remaining cash needed to acquire the land of about $1.9 million. The payments on this loan are amortized over 30 years but due in 8 1/2 years. Joe charges the partnership an interest rate of 1.87 percent.

Once the property has been purchased Joe’s children will be 99 percent limited partners in the family limited partnership. 99 percent of the property’s appreciation will be attributed to the children’s interest and out of Joe’s estate. Furthermore, the S corporation, which is owned by Joe, controls when cash is distributed to the children, providing him with complete cash control. As a side benefit, since the $1.9 million loan has a 1.87 percent interest rate, if rates increase, the value of the loan could be discounted for estate tax purposes should Joe pass away.

In 2016, Joe continues gifting to the children at the same rate of $56,000 per year. The plan is to have them contribute the funds to the limited partnership and use this money to help pay down Joe’s loan. If they contribute $56,000, the S corporation has to contribute $566 to keep the 99 percent/1 percent ownership ratio.

When Joe’s loan matures in 8 1/2 years, the principal balance should be approximately $1,450,000 because his children have contributed their annual gifts to the partnership and the partnership has made about $450,000 of payments towards Joe’s loan. With any luck, the property has substantially increased in value. At this point, Joe can either extend his loan at the new market interest rate or choose to refinance the property and get a large enough first mortgage to pay himself off entirely.

You can use this plan to educate your children about commercial property ownership, transfer wealth, retain control of funds and leverage annual gifts into something much more.

For more information about transferring wealth and structuring family partnership, call Ron Stumpf at 714.569.1000.

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SES’s EVP Janet White shared, “SES has the ability to use the insurance buying power of regional and national banks to secure highly competitive pricing with coverage that far exceeds the coverage typically available in homeowner policies.”

Coverage offered by the Master Trust Program includes coverage offered in most homeowner policies plus coverage such as earthquake, flood, replacement cost without co-insurance penalties and liability limits as high as $10 million.

SES places the insurance through highly reputable insurance carriers that include Chubb, Travelers, Zurich North America and FinSecure Berkley. SES is also a Lloyd’s of London coverholder which enables the company to place high levels of coverage for earthquakes and floods.

Don Petrie of Elkins Jones stated, “SES provides banks access to the Trust Insurance Management System (TIMS®) which allows them to instantaneously secure insurance coverage for newly acquired properties by the trusts in an efficient fashion. TIMS® simplifies complex insurance transactions for trustees, beneficiaries, insurance brokers and insurance carriers.”

In January, SES launched a program to insure large portfolios of residential rental properties. “Our TIMS® system is the ideal platform for firms to manage the entire insurance process of a dynamic portfolio. Combining TIMS® with SES’s 25-year history has attracted new insurance carriers to this evolving market. We have decades of related premium and loss data to support competitive pricing, a highly tenured and professional team that specializes in master policy placements and the system that provides ease of use and clarity for all stakeholders,” reports Graham Doran, VP and Product Manager of SES’s Real Estate Investor program.

SES’s driving purpose is to be a force of positive change for its employees, stakeholders and its community. Patty Kobzi, head of HR, is proud to report that “100 percent of our employees contribute to charitable causes and participate in service projects. Each employee also performs 40 hours of company-paid community service for the cause of their choosing. SES is a major sponsor of a golf tournament supporting the Children’s Craniofacial Association, and our owners, Blair Schrum and Bill Mecklenburg, spend one night a year sleeping on the streets of Los Angeles in solidarity with homeless youth in support of Covenant House. We are fortunate to have a professional workforce with a passion to serve their customers and the community.”