CLIENT UPDATE *and wealth advisor*

WINTER 2026 - JANUARY

KEMPE

Law | Estates | Tax | Wealth

Offices in Jupiter, Stuart & Vero Beach

IN THIS ISSUE

THE SECOND HOME OR HEIRLOOM PROPERTY

- PASSING ON A FAMILY COMPOUND AND STUFF IN IT -

A large percent of our clients have two or more homes. An increasing number of our clients have either old Northern homestead properties or ranches, farms, or mountain homes, in the East or Rocky Mountains. Some consider their Florida primary residence an heirloom property, while others recognize it as their lifetime home but not the family compound where heirlooms are desired to be maintained- some heirs hope for a family museum to prevent division of the family stuff! Once labeled an intended heirloom, where there is an intent to pass it on to the next generation, a host of issues arise. This note addresses some.

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CONSERVATION EASEMENT PROPERTY

- THE GOOD, BAD, AND BEAUTIFUL -

Land is commonly a good investment, and when purchasing it at a discount because it is encumbered by a conservation easement (for second homes or otherwise), it can prove to be a very beneficial investment or family compound or retreat. Alternatively, land already owned can be restricted from future development, depressing its value which can result in tax benefits. States often have programs encouraging conservation, where they will pay for development restrictions. Conservation easements are often done to reduce estate tax exposures, where the property is intended to be family owned for generations. Alternatively, the valuation reduction created through a conservation easement can entitle the landowner to a charitable income tax deduction that reduces income taxes, while the landowner continues to use the property as a residence, farm, or ranch. These measures and transactions, however, have been under scrutiny in recent years by the IRS because taxpayers have sought unrealistic valuation reductions and corresponding charitable contribution tax deductions. Pig's get fat, and hogs get slaughtered!

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IS YOUR PRIOR STATE COMING AFTER YOU?

- ABANDONMENT OF DOMICILE AND NEW HOMESTEAD -

A recent NY case highlights the importance of taking proper steps to not only establish Florida residency, but to abandon ties to the prior state of "domicile." Florida welcomes new residents and establishing Florida residency is neither difficult nor met with much obstacle. Abandoning the former domicile is where the focus should be. Residency and domicile are separate legal concepts for this purpose, and domicile is the key to divorcing a prior state for tax purpose.

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ESTATE ADMINISTRATION AND SETTLEMENT

- PROBATE AND THE SCOPE OF ADMINISTRATION ARE OFTEN MISUNDERSTOOD

We are often asked to explain the scope of estate settlements and cost. In general, this is dictated by whether a decedent's assets are properly titled at death and whether a taxable estate exists. Asset title determines whether probate is required to clear title in a decedent's estate, while the existence of a taxable estate provides a better barometer of the duration of the estate's administration. If a taxable estate exists, the duration is often two to three years until the IRS completes its review and issues a "Closing Letter" that releases the executor of liability for unpaid taxes.

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Room For Optimism in 2026?

- A Lot Could Go Wrong, But So Much Could Go Right! -

As we enter 2026, we have a tailwind of favorable economic data. Inflation is down and productivity has risen. Interest rates are falling, but likely not enough on the long side to drop mortgage rates to their 5 year low. Housing is needed, but unless rates fall further supply will be driven by demand created by wage increases and productivity. Tariffs failed to spur inflation as some warned and created budget surpluses not seen for many years. Artificial intelligence and quantum computing have driven the equity markets to record highs, with some evidence that the participation by other sectors is broadening and will broaden further in the New Year. These factors present what is called a K shaped economy, where the "haves" and "have nots" have grown further apart.

Additionally, much of Trump's fiscal stimulus under his Big Beautiful Bill (the "BBB"), that aims to provide greater after-tax cash flow to middle class families, kicks-in January 1. As a result, fiscal stimulus and additional monetary policy may infuse greater money into the U.S. economy. Whether it will spur inflation, remains a question. Unemployment has increased with job layoffs because of Trump's desire to trim the federal government (previously bloated with hires during the Biden administration) and business use of artificial intelligence. If history proves correct, re-training of laid-off workers causes them to re-enter the labor markets in short order.

The political mantra for 2026 as we approach midterm elections will remain "affordability" and the impact of interest rates. Inflation has subsided, but the cost of major purchases, like homes and automobiles, are way-up. This exacerbates the effect of the K shaped economy, limiting the "have nots" from acquiring assets. The Fed and Trump administration appear to recognize this and there is hope that the Fed will continue to ease on weaker inflation, good GDP growth, but enough weakness in employment to support further reductions. Lowering interest rates, expanding the duration of mortgages to 50 years, and longer car loans will help affordability. This will be a major issue as Trump replaces Fed Chair Powell with a more accommodating Chair. The risk is that reducing short rates will exacerbate the problem by increasing long term rates. The Fed can only do so much.

We have adopted the use of artificial intelligence ("AI") on a trial basis and are a beta site tester for Luminary and Black Diamond. (Black Diamond acquired Advent, who some may remember we helped beta test their Advent Axys wealth management reporting software.) So far, we find promise, but it is simply a tool that is not perfect and it will not replace any of our staff. It simply helps with assembly of documents, summaries (that are sometimes not accurate), and does not replace the need for detailed review. Nevertheless, AI and the next best thing coming, Quantum, are investment theses that will have a significant affect on our economy and thus markets.

Once again, passive investment through low-cost passive S&P 500 ETFs outperformed active managers in 2025, though returns were highly concentrated in Big Tech, presenting their own risks. Those who didn't participate didn't win, but a record $1 trillion was withdrawn from actively managed funds in 2025, with much of those dollars being reinvested in passive index funds. The result is a risk, that an artificial stimulus that increases the value of ETFs and their holdings beyond fundamental value, may collapse. Vanguard's Jack Bogle and others have warned us that regression to the mean is an "iron clad" rule that has always proven correct in time. Will the new Trump accounts exacerbate the risk of this blind eyed investing because of the requirement that only mutual and index funds can be purchased? Time and earnings will tell!

Estate planning remains the same- avoid probate, avoid taxes, and address control. The federal estate, gift, and generation skipping tax exemptions have increased to $15 million each, indexed for inflation, and the BBB has made the increases permanent- meaning they will not automatically sunset in the future and can only be changed with approval of Congress and a new President. Nevertheless, planning to reduce the tax on taxable estates remains the same- use exemptions and legally manipulate values when shifting wealth out of the taxable estate to a spouse or heirs. The *Belmont Investment* case will be one of the more interesting in many years and will hopefully provide some insight into the court's view of the law of grantor trusts and cost basis adjustment (capital gain elimination) of previously gifted property on the death of the grantor. See bottom of opposite page.

Some wars have ended and some continue. The World continues to have conflicts that affect much of what we do. All we can do is hope and pray for the best, and we wish you God's blessings for a healthy and prosperous New Year!

Stuart Office

The Long and Short of Investing More Than it All

- Renewed Marketing of Long/Short Investing and Loss Harvesting -

When does it make sense to pay for losses? Answer: When the cost (on a time value basis) of generating them is less than the tax savings created. There is renewed marketing by many institutions of long/short strategies, which as one client who is a retired hedge fund manager told us, "involves a strategy we executed 25 years ago to generate [after tax] alpha!" Tax loss harvesting within a portfolio is not a new thing and is quite common, subject to the so called "wash sale" rules. What is more lucrative for broker-dealers, however, and what is being marketed more frequently, are 130/30 (or 150/50) long/short strategies using separately managed accounts that emulate an index, like the S&P 500. Why? After tax return (after tax alpha or "TA") is what matters, and managers receive greater fees. Also, using separately managed accounts emulating an index makes it easier to avoid the constructive sale and wash sale rules under the Internal Revenue Code.

Loss harvesting can be valuable, because at the margins it saves taxes. A $100 loss can save in our examples $40, assuming a 40% state and federal combined tax bracket. However, generally no one wants to invest to achieve losses, at least on a long-term basis. There are exceptions where one plans to incur capital gains in the future- with near term gains offset by losses, which are more valuable sooner than later and less costly to achieve. Costs become the key hurdle in these strategies, since management of a 150/50 long-short portfolio means 200% of a base portfolio is incurring advisor management fees- the assets being managed are double. Furthermore, in order to secure the extra 100% over the base portfolio value, margin expenses and expenses associated with short selling must be incurred. Thus, the sooner desirable losses are achieved and can be applied against capital gains, the lower the accumulated expenses.

How they work isn't that difficult to understand. If I have a portfolio, it may represent 100% of my long investable liquid wealth. If I increase that base portfolio by 50% by borrowing (margin), and the portfolio rises, as long as the return on the extra 50% exceeds the margin and advisory fee cost, I have done better than simply being long my base portfolio and produced TA. Contrariwise, if I had a 50% short position, I would lose money in an equivalent amount as the long side increased in value. (If I am short Microsoft, it means I sold it at $500, for example, and am hoping to replace it at a lower price of $400. I have a short profit of $100. Contrariwise, if it goes to $600, I will have a $100 loss.) That loss can be realized and booked to offset future capital gains. Furthermore, I haven't economically lost anything if I am 150 long and 50 short because the margined 50% long position increased the same amount and offsets the loss of $100. In general, booking short term capital losses are much more valuable than long term losses. So, the 50% long exposure and 50% short exposure means that in a volatile market, I will always be able to book losses on either the long or short side through the duration of the holding period of the strategy, thus increasing TA, at least on a pre-cost basis, without incurring an economic loss.

Continued on page 10

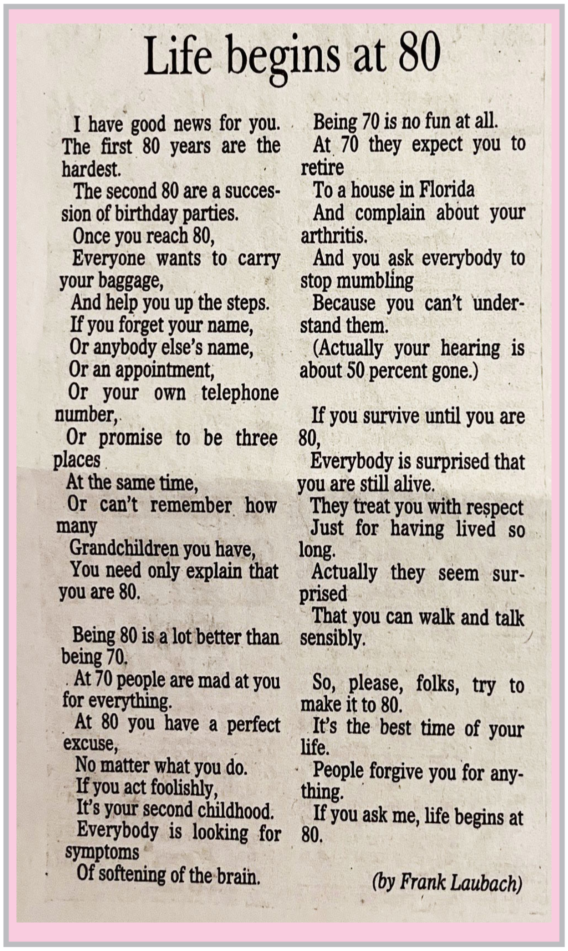
Potential Clarity Of Grantor Trust Basis Step-up Rules

- Will the Loophole Remain and For How Long -

As previously discussed in our Fall/Winter 2023/2024 Client Alert on page 3, a position may be taken based upon current law that assets in a "grantor trust" receive a basis step-up on the death of the grantor. Doing so with proper disclosures mitigates the chance of tax penalties for underpayments based upon a bonafide interpretation of applicable tax law. https://kempelaw.com/wp-content/uploads/2023/12/Newsletter-Fall-Winter-2023-24.pdf

Pursuant to Revenue Ruling 85-13, the grantor of a grantor trust is deemed the owner of the trust assets for income tax purposes. Pursuant to that ruling and other legal authority, some of which may be viewed as substantial authority, this should mean that the Trustee receives the assets as a "bequest or devise" upon the death of the Grantor, allowing a basis step-up under IRC §1014. This so called "loophole" was attempted to be closed by the Biden administration, but no changes to the Internal Revenue Code have occurred as of this time. To provide their position on this issue, the IRS recently released Revenue Ruling 2023-2, which indicated a step-up in basis is not available for assets owned by an irrevocable grantor trust upon the death of the grantor. However, a Revenue Ruling is only binding on the IRS and is not binding on taxpayers or any Federal Court or the Tax Court, since they are representative of the position only one of the parties before the Court- the IRS. Taxpayers may take a different position, supported by applicable law.

A case addressing this issue has recently been filed by *Belmont Investments, LLC*, against the Commissioner of the IRS in U.S. Tax Court. *Belmont,* asserts that the taxpayers were improperly denied a cost basis adjustment under IRC § 1014 . This case should hopefully provide greater clarity and insight on the Tax Court's view of this issue. The decision, whichever way decided, will however likely be appealed. Therefore, until finally resolved, taxpayers should proceed with proper guidance of competent tax law counsel when confronting this issue.



Life begins at 80

I have good news for you.
The first 80 years are the hardest.
The second 80 are a succession of birthday parties.
Once you reach 80,
Everyone wants to carry your baggage,
And help you up the steps.
If you forget your name,
Or anybody else's name,
Or an appointment,
Or your own telephone number,
Or promise to be three places
At the same time,
Or can't remember how many
Grandchildren you have,
You need only explain that you are 80.

Being 80 is a lot better than being 70.
At 70 people are mad at you for everything.
At 80 you have a perfect excuse,
No matter what you do.
If you act foolishly,
It's your second childhood.
Everybody is looking for symptoms
Of softening of the brain.

Being 70 is no fun at all.
At 70 they expect you to retire
To a house in Florida
And complain about your arthritis.
And you ask everybody to stop mumbling
Because you can't understand them.
(Actually your hearing is about 50 percent gone.)

If you survive until you are 80,
Everybody is surprised that you are still alive.
They treat you with respect
Just for having lived so long.
Actually they seem surprised
That you can walk and talk sensibly.

So, please, folks, try to make it to 80.
It's the best time of your life.
People forgive you for anything.
If you ask me, life begins at 80.

(by Frank Laubach)

The Dangers of Driving After Lunch

- Our Minds and Bodies Change-

Many older adults feel sleepy in the mid-afternoons, especially after a large lunch. While common, it can also be dangerous if not taken seriously.

Our bodies naturally have a dip in alertness between one and four o'clock in the afternoon. A large or heavy meal pulls blood toward digestion, which can increase tiredness. Warm rooms, dehydration, medications, and poor sleep the night before can make it worse. Alcohol too! This combination is often called "the post-lunch dip."

Post lunch dip is more dangerous for older adults because of increased risk of falls. Drowsiness affects balance, reaction time, and judgement. Standing up quickly while sleepy can cause dizziness. Falls are most likely when walking, climbing stairs, or using the bathroom.

Many drowsy-driving accidents occur between two and five o'clock in the afternoon. Interestingly, sleepiness slows reaction time as much as alcohol. In the past week alone, our office has been made aware of two local afternoon accidents as a result of elder drowsiness. In one, the driver fell asleep while stopped at a red light. His foot slid off the brake, and he entered a very fast and busy intersection resulting in a t-bone crash and has been charged with the negligence of the accident. See Liability Risk article in the left margin of page 10.

Clearly, there are some precautions retirees can take, even though lunching with friends is often a favorite activity. There are four guidelines for lunching with friends: smaller portions; less fat content; drink plenty of water, and designate a driver who does not drink alcohol. Rather than desert, a short walk as part of the outing is an excellent ending to lunch. Walking after eating is great for improving digestion, stabilizing blood sugar levels by helping muscles use glucose, reducing bloating, and boosting heart and metabolic health, all while lowering stress and improving mood with minimal impact on joints.

If you are feeling sleepy in the afternoon after a change in medication, call your doctor. Feeling sleepy in the afternoon is normal, but unexpected or unplanned nodding-off is not normal and not safe.

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Health Care Advocacy
Bioethics Law
Death With Dignity
Guardianship Proceedings

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"I Gave My Social Security To Him!"

- Loneliness and Susceptibility to Fraud -

As more people seek connection and companionship online, anonymous scammers are lurking to take advantage. With the rapid rise of AI and deepfake technology, these scammers are using increasingly sophisticated tactics to mask their identities. In HULU's docuseries, *"Hey Beautiful: Anatomy of a Romance Scam,"* several brave women tell their stories on how they were lured into these relationships that feel very real- including marriage proposals. These women tell how "he" was charming, attentive, and very handsome, but learn he was completely fictional. Some of the women were even scammed out of their life savings. We recommend that all our clients watch this series. Loneliness is ubiquitous in the elderly community due to increased numbers of single people living alone and distanced geographically from family and friends. Many couples retire to Florida leaving behind family, friends, and years of community involvement.

As a result, the death of a spouse can be devastating to the surviving spouse. Interestingly, the increased use of the internet and various websites, such as YouTube, where advertising is often interspersed with connection-content, has created a particular fraud scheme of providing users with access to romantic dating sites for the older person.

The world wide scheme of such types of fraud is breathtaking and a must watch education for not just the elderly, but the entire family. We have a savvy client who could have been defrauded of hundreds of thousands of dollars, if not millions, in conjunction with three fictional marriage proposals that felt real. As more people seek connection and companionship online, anonymous scammers are lurking to take advantage.

Bottom line: do not give any of your information to anyone who texts or emails you requesting it. And do not donate to any unknown group or person specifically requesting credit card numbers for the donation.

ESTATE ADMINISTRATION TIMELINE

Date of Death
- File Will
- Secure All Property

2-4 Weeks Later
- Accept Fiduciary Nominations
- Inventory Assets
- Begin Title Searches
- Review Legal Documents
- Open Operating Account
- File Notice of Trust
- Serve Trust and Nomination Acceptance on Beneficiaries
- Obtain Tax ID Numbers

2 Months
- File Probate if Required
- Access Safe Deposit Box
- Request DOD Asset Values
- Appraise Assets
- Re-Title Accounts
- Address Creditor Issues
- Update Entity Records, and Address Governance, if required
- Address IRA's and Determine if RMD taken
- Determine Investment Policies
- Address S-Corp or ESBT Elections
- Address Homestead
- Address Fiduciary Fees

6 Months
- Waive or Calculate and Document Fiduciary Fees
- Obtain Administrative Expenses for Deduction on Tax Returns
- Address Disclaimers
- Consider alternate values
- Tax Planning
- Estimate Federal & State Estates Taxes

9 Months
- Consider Partial Distributions and Distribution Planning Considerations
- Disclaimer Deadline
- 706 and State Estate Filings or Extensions
- Consider Allocation of Deductions Between Entities

Prior to Due Dates
- Income Tax Returns
- Fiscal Year Planning
- Tax Planning

1 Year and 3 Month
- File 706 on extension, if applicable
- File IRS Form 8971

1 Year and 9 Months
- Distribution Planning

2-3 Years
- Tax Returns
- Address Final Accounting, or Waivers
- Plan of Distribution
- IRS Closing Letter
- Close Probate
- Final Distribution and Trust Funding
- Income Tax Planning

Decedent's Name: *E/O John Doe* File Number: *6234.800*

PROBATE AND THE ESTATE ADMINISTRATION PROCESS

(continued from cover)

Probate is a nominal process, whereas the existence of a federal taxable estate or decision to file a federal return to make a portability election are the determining factors that fix duration and increase cost. Many people confuse probate with taxation. The two are mutually exclusive.

Asset's titled in the name of a decedent, without a pay-on-death designation ("PODs"), will generally pass by the decedent's will or state law. Generally, we frown on the use of PODs because they remove the assets from the intent of the decedent, reflected in a will or trust. A will means nothing until it passes through a court process where the will is proved valid and a decedent's liabilities are satisfied. Commonly wills pour-over assets to a revocable living trust, which is created to hold the assets prior to death and avoid the need for probate. The will is a backup to the trust. A revocable trust eliminates reliance on a will to pass assets and eliminates the need for probate, but only if assets are properly titled. Therefore, asset titles are a very important component of the estate planning process. Typically, a probate process will take nine months to complete, assuming there is no litigation or complicated business arrangements or assets. See *The Consequences of Asset Titles* in our Winter 2025 Client Update (page 7) https://kempelaw.com/wp-content/uploads/2025/01/Newsletter-Winter-2025.pdf

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The existence of a federal taxable estate can extend the duration of an estate administration beyond two years. An estate tax return is required to be filed within nine months of death, absent extension. Often it is prudent to file a six-month extension if there is a surviving spouse, as different elective decisions may be made if his or her health changes. Any estate tax is due and payable on the nine-month date after date of death. Similarly, a Florida decedent with property in a Northern state may have a state death tax reporting obligation which differs from the federal requirement. Furthermore, a decision may be made to file a federal estate tax return to make a "portability election," to pass any unused exemption of the decedent to a surviving spouse.

Throughout the period of administration, accounting for cash flows and income taxes becomes important. The cash flow needs of a surviving spouse and heirs are assessed and provisions are made to meet those needs. Cash flows can also affect the income taxes born by the estate, trust, surviving spouse, and heirs. Tax planning associated with methods of reducing any estate, income, and generation skipping taxes are considered and implemented. As such, generally there is a need to coordinate financial advisors, tax accountants, and lawyers during an estate administration. We generally satisfy this need for our clients.

Cost is always important to understand. As such, many states including Florida have statutory guidelines on fees that are deemed reasonable. These guidelines set forth expected fees for ordinary and extraordinary services for lawyers and executors, whether or not probate is avoided or an estate tax return is required. Our standard protocol is to establish a team of legal assistants, accountants, and attorneys and a budget for the time anticipated over the course of the estate administration. This budget would include all legal, tax, and accounting work anticipated. We then establish either a fixed fee or an hourly rate with a cap. We commonly find that our budgets approximate 50% to 65% of the statutory standard, but are dependent upon a client's particular circumstances. Our standard estate planning engagements provide a guarantee that we will be less than 25% of any competing fee quote by any other firm, if we have been the decedents estate planning attorney. We should be if we did the planning and have assembled a qualified team!

Integration of Cryptocurrency into Estate Plans - Custody of PassKeys and Responsibility

- Security and Not Making Your Heirs Criminals -

Those with crypto currency within their asset portfolio have more than likely repeated the phrase “Not your keys, not your coins” once or twice. For those that are unfamiliar with the concept, crypto currency owners hold their crypto within an on-chain (blockchain) “wallet.” Each wallet is recognized on the blockchain as the owner of a given amount of that specific cryptocurrency. Think of your wallet as your bank account for any given cryptocurrency. As discussed in our previous article entitled Blocks of Digital Assets- Bitcoin, Non-Fungible Tokens (NFTs), and Property (https://kempelaw.com/wp-content/uploads/2022/01/Newsletter-Winter-2022.pdf) , there are two general concepts on how blockchains are structured: proof of stake and proof of work. For proof of stake, crypto holders stake their currency on chain and receive interest for their staking, similar in concept to an interest bearing bank account, with the staked cryptocurrency functioning as the bank. This provides liquidity for others to transact, in a manner similar to bank lending capabilities. For proof of work, the blockchain is a chain of blocks with each block formed once a solution to a cryptographic equation is found by a crypto miner.

The blockchain provides an open ledger concept of crypto currency - the ledger of all wallets and their holdings is completely transparent on the blockchain. As such, assurance is provided that the party you are transacting with owns the crypto currency they state. To access your wallet at any time for either proof of stake or proof of work blockchains, you are provided a multi-phase pass key. With this pass key, you can access your crypto currency from anywhere, at any time. However, the pass keys are tantamount to accessing your crypto currency - without them, your crypto currency will be lost, forever. There is no Bitcoin or Ethereum headquarters to contact for a password reset or username recovery. While this concept does eliminate third party risk and provides the user complete privacy, it places all risk on the user. For purposes of estate planning, this increases the complexity of a seamless transition of such assets to the next generation that clients may have not previously contemplated. Furthermore, it can lead holders to feel that stored wealth cannot be found by government agencies, such as the IRS, and lead them to a false sense of undiscoverable evasion.

The IRS has many methods of finding evaders, using technology or simple net worth audits- how have you acquired the assets you have on such little income and wealth? If you can’t use it, what good is it? Furthermore, the IRS is significantly intensifying its efforts to combat cryptocurrency tax evasion, utilizing advanced blockchain analysis and data analytics to track transactions and link wallet addresses to individuals, even when privacy tools are used.

This surveillance is expected to lead to a substantial increase in crypto tax audits, with the IRS preparing for real-time tracking of crypto activity in the 2025 tax year. The IRS has already demonstrated its capability to pursue criminal charges for willful evasion, as evidenced by the 2024 conviction of a man sentenced to two years in prison for tax evasion related to Bitcoin. The statute of limitations for evasion can be indefinite, and your heirs can become civilly and criminally responsible for failure to disclose these assets. This is similar to those who possess gold and other collectibles, as those assets pass-on to heirs at death. The risks of conviction and penalties for evasion can be great! See *Ringling* on the bottom of page 7.

Generally, we recommend that all assets be owned and pass to future generations in trust, in order to secure many levels of protection. To integrate these crypto assets into trust, there are multiple avenues a client may consider. A client may maintain personal ownership and provide clear instructions to a spouse or the next generation with their pass keys maintained in a safe location (a safety deposit box, a personal safe, or within your estate plan file within our will vault). A client may decide to integrate their cryptocurrency with their base estate plan by transfer to a newly established wallet owned by their Revocable Trust to avoid probate, with the revocable trust’s pass keys secured as previously described. A client may choose to make a taxable transfer or sale to an irrevocable trust or other entity to shift these assets out of their taxable estate by utilization of their gift tax exemption during life if they foresee their crypto currency increasing in value. However, the risk of loss of the pass keys remains, unless the wallet requires multiple signatures.

A multi-signature wallet solves the 1st party risk issue by giving three parties pass keys and requires two of the three signatures to access the wallet. Each party maintains their own pass key. One set of pass keys is held by the wallet issuer, one set of pass keys is held by the client, and a set of pass keys may be held by a trusted third party such as a friend or your attorney. Therefore, even if the client or an individual who the client trusted to maintain the pass keys loses their pass key, there are two others. The multi-signature wallet mitigates such risk. We maintain the pass keys of clients within our will vault or act as a trusted alliance to hold pass keys in a multi-signature wallet. Within our Firm, we have multiple layers of security for crypto, accounts, and client property that are designed to mitigate risk of loss.

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A Historical Perspective of the Estate and Gift Tax Exemptions and Rates

The original estate tax was enacted in 1916, with an exemption of $50,000 and a rate of 10%. The highest the rate has been is 77%, which was in the 1960s. The current exemption of $15 million (indexed) has been made permanent.

Historical Gift Tax Exemption Amounts (Per Person)

1997	$600,000	55-60%
1988	$625,000	55-60%
1999	$650,000	55-60%
2000	$675,000	55-60%
2001	$675,000	55-60%
2002	$1,000,000	50%
2003	$1,000,000	49%
2004	$1,500,000	48%
2005	$1,500,000	47%
2006	$2,000,000	46%
2007	$2,000,000	45%
2008	$2,000,000	45%
2009	$3,500,000	45%
2010	$5,000,000 or 0%	35% or 0%
2011	$5,000,000	35%
2012	$5,120,000	35%
2013	$5,250,000	40%
2014	$5,340,000	40%
2015	$5,430,000	40%
2016	$5,450,000	40%
2017	$5,490,000	40%
2018	$11,180,000	40%
2019	$11,400,000	40%
2020	$11,580,000	40%
2021	$11,700,000	40%
2022	$12,060,000	40%
2023	$12,920,000	40%
2024	$13,610,000	40%
2025	$13,990,000	40%
2026	$15,000,000	40%

This 2026 exemption of $15,000,000, indexed for inflation, is now permanent unless altered by Congress and future administrations.

<u>Note:</u> The generation skipping tax rate and exemption is the same as the highest estate and gift tax rate and the exemption threshold has historically been the same as that of the estate and gift tax.

Melissa D. Lazarchick, Esq.
Probate Litigation
Estate Administration
Guardianship Proceedings
Fiduciary Services

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The Consequences of Asset Titles

- Florida Supreme Court Addresses Tenancy By The Entireties -

The Florida Supreme court has overturned *Loumpos v. Bank One*, a lower court case which held that one spouse cannot create a tenancy by the entireties account on behalf of both spouses by merely labeling it as such, without a conveyance by both, which would require two transfers- one spouse transfers to both spouses in joint tenancy followed by a conveyance into tenancy by the entireties. This decision thus overturns the lower court's decision cited in our discussion of asset titles on page 7 of our Winter 2025 Client Update: https://kempelaw.com/wp-content/uploads/2025/01/Newsletter-Winter-2025.pdf The decision is based upon F.S. § 655.79(1) that provides for a presumption that a "deposit account" labeled as tenancy by the entireties can only be found titled otherwise, if "specified in writing." Under Florida Statute § 655.55, a "deposit account" means any deposit or account in one or more names, including, without limitation, any certificate of deposit, time deposit, credit balance, checking account, interest-bearing account, non-interest-bearing account, individual retirement account (IRA), money market account, NOW account, transaction account, savings account, passbook account, joint account, convenience account, escrow account, trust account, custodial account, fiduciary account, deposit in trust, or Totten trust account. Note, that this statute does not make clear whether an investment account or other form of property can be titled without meeting the unity of time and unity of title requirements on which *Loumpos* was based. There is some precedent that implies they do not, but to be certain two transfers and compliance with the unities of time and title remain prudent until greater clarity is obtained. Furthermore, any account opening documentation should clearly designate it is held in tenancy by the entireties, because if it simply says joint tenants and is signed by both spouses it can be argued that the presumption of tenancy by the entireties has been altered by specific writing.

The result of the of the Supreme Court's decision in *Loumpos* is to conform deposit accounts with its decision in *Beal Bank*, as it pertains to real property. Real property held by a husband and wife in joint names is presumed to be held as a tenancy by the entireties ("TBE") unless there is an express indication to the contrary. The Court has affirmed this rule, stating that a conveyance to spouses as husband and wife creates an estate by the entirety in the absence of express language showing a contrary intent. This presumption applies to both homestead and non-homestead property, and Section 689.11 of the Florida Statutes now provides that one spouse can create a TBE in real property by deeding the property into the names of both spouses, eliminating the need for a straw man or two transfers to affect the conveyance.

The controversy in this area is typically driven by lawsuits seeking damages and recovery from a debtor spouse's interest in a joint account or property, owned by a married couple. If the lawsuit isn't against both spouse's, tenancy by the entireties property is exempt from levy by a creditor. A potential suit against both spouses should be avoided by titling vehicles (including golf carts) and water vessels in the name of the principal or usual driver. <u>See</u> discussion on vicarious liability within this Client Update in the left margin of page 10.

The IRS Can Come Knocking for a Long Time

- Transferee Liability for an Estate's Unpaid Taxes -

The role of a personal representative of an estate includes numerous responsibilities, which include inventorying assets of the estate, identifying liabilities, paying debts, and making distributions. Generally, the personal representative will make distributions to beneficiaries in accordance with their interest after the satisfaction of all obligations of an estate. However, it is common for a beneficiary to directly receive assets outside of probate, such as in the case of joint ownership or beneficiary designations. In those cases, the personal representative did not have possession or control over the assets because it bypassed the probate estate. However, those assets may still be included in the decedent's taxable estate for federal estate tax purposes.

Included in the responsibilities of a personal representative of an estate, or executor if probate is avoided, is the liability for the payment of federal estate taxes. This liability is not limited to assets of the probate estate. It can extend to a variety of assets controlled by others, so they are not subject to personal representative or executor control, such as when a beneficiary or transferee directly receives assets that are included in the decedent's taxable estate.

In the absence of an appointment of a personal representative of an estate, any person in actual or constructive possession of any property of the decedent is required to pay the entire tax to the extent of the value of the property in the individual's possession. All of these people are considered an executor for federal tax purposes.

If an executor fails to pay the tax, the IRS has the option of also proceeding against transferees under a special lien statute for the collection of any unpaid taxes with respect to property included in the taxable estate that they received. Under Internal Revenue Code (IRC) section 6324, unless the estate or gift tax due is paid, a lien for the tax is imposed on the assets of the decedent's taxable estate. The term "transferee" includes donees, heirs, devisees, and distributees, as well as anyone who is personally liable for estate tax under the terms of the special estate and gift tax lien statute. By its definition, the term "transferee" includes beneficiaries of an estate. The transferee of property is liable for payment of the estate and gift tax to the extent of the value, at the time of the decedent's death, or earlier gift, of the property received. The statute of limitations is 10 years from the date of the decedent's death. However, if no gift tax return for the applicable year was filed, then the statute of limitations will not start running for that particular gift- it becomes indefinite! A famous family (Ringling Brothers) learned these rules the hard way!

Continued on page 14

Tax Planning under the Big Beautiful Bill (the "BBB")

- Income Tax Planning and Compliance Have Gotten More Difficult for Some -

Some provisions of the BBB have simplified tax compliance, while others are much more complex. It potentially affects every aspect of planning and is far greater than initially assumed. There is a renewed emphasis on income tax planning and non-estate tax aspects of estate planning, such as whether or not to fund marital or non-marital trusts and with how much. The wealthy should continue aggressive planning, as has been done for decades.

Estate Exemptions versus Capital Gain: Estate plans often have biases built into them, that can place unnecessary use of estate and gift tax exemptions ahead of capital gain elimination. With the increase of the estate, gift, and generation skipping tax exemptions to $15 million, these biases may turn on their head. Flexibility in making these decisions is the key to good planning. Similarly, some may be better served playing it safe and funding trusts for spouses in contemplation of rises in asset values (and possible estate tax changes in the future) to lower future estate tax exposures, and structure them as grantor trusts to potentially achieve the dual benefit of estate tax and capital gain tax reduction. <u>See</u> Grantor Trust discussion on the bottom of page 3.

Life Insurance: Often life insurance is acquired to provide liquidity into an estate to fund projected estate taxes. With the increase in exemptions, the insurance may no longer be necessary and the longer the policy exists the more the insurance company makes. Many may be better off canceling policies.

Business Provisions: Much like Reagan promoted in the early 80's, the BBB provides for accelerated write-off deductions through bonus depreciation and other means. Furthermore, many provisions are aimed at encouraging growth through investment in small businesses.

Individual Income Tax Provisions:

Tax rates: The maximum rate remains at 37% and will <u>not</u> increase to 39.6%. Income shifting to family members in lower brackets using trusts and other means remains beneficial.

Standard deduction: The BBB increases the deduction amounts to $15,750 for single taxpayers and $31,500 for married filing joint taxpayers. Planning requires careful consideration of whether a client should itemize or take a standard deduction. This will have important implications for charitable planning, discussed below.

Home Mortgage Interest Deduction: The BBB permanently extends the limitation on deducting qualified residence interest. This deduction is limited to interest incurred on up to $750,000 of home mortgage acquisition debt. The limitation's provision states that those who purchase a home with cash but acquire a mortgage later will not qualify for the interest deduction. Parents helping children to acquire a home should be mindful of these rules. The BBB also permanently restricts the ability to deduct interest on home-equity loans.

Charitable Contribution Deductions: Generally, taxpayers claiming a charitable contribution deduction must itemize deductions, opting out of the standard deduction. Most taxpayers do not itemize because of the many limitations that come with the option and because of standard deduction increases. But if an individual takes the standard deduction, historically they could not take a charitable deduction. The BBB provides a charitable contribution deduction of up to $1,000 for single taxpayers, or up to $2,000 for married taxpayers filing jointly, even if the taxpayer itemizes. For taxpayers who itemize deductions, the BBB reduces charitable contributions by 0.5% of the taxpayer's contribution base, thus complicating planning and compliance. While this reduction will reduce the tax benefits that some realize from their contributions, it is likely not material to charitable planning discussions. The contribution base is adjusted gross income (AGI) determined without regard to any net operating loss carryback to the taxable year.

Miscellaneous Itemized Deductions: The BBB permanently eliminates miscellaneous itemized deductions, such as tax preparation costs, legal and investment management fees, and others for most taxpayers. For those that incur substantial tax, legal, and investment management fees on an annual basis, the creation of a family office should be considered.

Itemized Deductions: It is important to understand that "above the line" deductions reduce taxable income regardless of amount, while "below-the-line" deductions are only useful to the extent they exceed the standard deduction —$31,500 for married couples and $15,750 for individuals in 2025. The amount of itemized deductions that an individual taxpayer can deduct (after applying limitations, such home mortgage interest and miscellaneous itemized deductions) must be reduced by the lesser of: (1) the amount of itemized deductions, or (2) so much of the taxable income of the taxpayer for the taxable year (determined without regard to the section and increased by such as amount of itemized deductions) as exceeds the dollar amount at which the 37 percent rate bracket begins. For those married filing jointly, the amount is $751,600. If earned income is below this amount, the individual taxpayer would not face a limitation as test (2) would equate to zero. Note the application of this. If a taxpayer has a business and deducts all equipment purchases or research costs under the BBB, they might have large economic earnings but face no limitation on his or her deductions.

Trump Accounts: Trump accounts are a new savings vehicle to help children. These will be in the form of special individual retirement

Continued on page 10

Florida Repeals Sales Tax on Commercial Rent

- Most Real Estate Rentals Now Free of Sales Tax -

After years of debate, Florida has officially eliminated its tax on commercial real estate rentals. Beginning October 1, 2025, the state no longer imposes sales tax or discretionary surtax on rent for office space, retail stores, warehouses, or other commercial properties. The change marks a significant shift in Florida's business tax environment and brings it in sync with residential rentals, which have been exempt with certain limited exceptions.

Sales tax will continue to apply to:

- Transient accommodations (e.g., hotel rooms, rentals under six months)
- Parking or storage of motor vehicles, boats, or aircraft
- Rentals in public lodging establishments like hotels or motels

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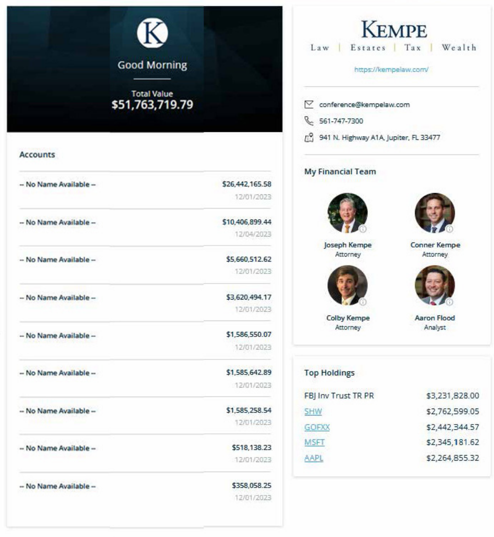

Family Office And Wealth Management Services

- Aiding Client Independence Through Transitions -

Our teams of accountants and attorneys assist families on a multi-generational basis and fill the gaps that a full-scale family office would often achieve, but at a fraction of the cost through an annual fixed fee.

Bookkeeping and Bill Payment- our staff of bookkeepers assist with reconciliations, accountings, cash flows, bill payments, and with security authentications, under the supervision of lawyers and CPAs.

Tax Planning and Compliance- teams of CPAs and tax attorneys collaborate on client tax minimization and assure legal structures are followed, which oftentimes is lacking. Furthermore, we file 1000s of tax returns a year for our clients and proper tax compliance mitigates exposure to penalties and reduces risks.

Wealth Management and Reporting- we often work in conjunctions with investment advisors as a team member to verify cost and performance, while mitigating the tax effects on transactions and cash needs. We also assure investments are being made in protective and proper legal structures and that cash flows are proper. Aiding clients with transitions is often achieved with oversight and reporting, not only to the client but to other family members that live in distant states. Periodic reporting conferences bring everyone together to assure optimum results and effective communications. Our reporting uses virtual family office software systems which we helped develop as a beta user for major public companies.

Legal - true wealth management begins with legal foundations and relationships with legal meaning and consequences. That means lawyers created the foundation and when not monitored by those who understand legal structure, the best laid plans can fail. The client typically must assure this by bringing professionals together, which is often neglected. We commonly assume that role!

Projected Increases in Estate, Gift, and GST Exemptions and Exclusions for 2026

Various tax laws are affected by inflation, which adjusts deductions, exemptions, and credits on an annual basis. Here are a few affecting estate planning:

- The estate and gift exemption amount (currently $15 million in 2026, indexed for inflation.) The GST exemption will likewise increase by the same amount.

- The annual gift tax exclusion will remain $19,000 in 2026.

- The gift tax exclusion amount that can be given annually to a non-citizen spouse is increasing from $190,000 up to $194,000 in 2026.

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Client Snapshot

Client Name:	Jane Doe
Client #:	999.281
Date:	12/26/2025
Reporting Period:	November 2025
Legal Assistant:	Alison Overton
CPA:	Denise Alpert
Advent Analyst:	Aaron Flood
Lawyer:	Joseph C. Kempe

CURRENT

Total Family Wealth:	$381,289,000
Tax Exempt Trusts & Entities	91,193,000
Husband's Estate Size:	0
Wife Estate Size:	290,096,000
Joint Estate Size:	0
Current Estate Tax:	114,441,000
Percent of Current Estate:	30%
*Projected Gross Estate:	829,352,000
*Projected Estate Tax:	242,640,000
Percent of Projected Estate:	29%
Estate Tax Bracket:	40%
IRA Portfolio:	5,300,000
*Total Family Partnership	296,909,000

Based upon a 3% return, net of expenses over life expectancy and no valuation discounts. The current Estate Tax estimate assumes a $13,990,000 exemption and 40%. Effective January 1, 2026, the exemption is $15 million, indexed for inflation thereafer. We are assuming an inflation rate of 2.5%.

Investment Performance

Year to Date	
Portfolio:	**14.90%**
S&P 500:	17.80%
Barclays Agg:	7.50%
Last 3 Years	
Portfolio:	**18.60%**
S&P 500:	20.70%
Barclays Agg:	4.60%

Current Year Realized Gains and Estimated Tax Status

2025 Gains/(Losses):	$ (248,171)
Protected Tax Status:	N/A

(Performance and Realized Gains are through the reporting period on monitored investment accounts. The IRR for periods over a year are annualized as per GIPS recommendation.)

Income for the Period Ending 2024

Total Income:	$ 6,536,716
Tax Free Income:	2,450,371
Capital Losses:	1,500
Adjusted Gross Income:	4,084,845
Taxable Income:	4,038,624
Marginal Tax Bracket:	37%

Gift & GST Exemption

Husband Gift Available:	$13,990,000
Wife Gift Available:	4,490,000
Husband GST Used:	-
Wife GST Used:	9,500,000
DSUE Available:	-

Estate Planning Developments

Reviewed & Current	YES	NO
Will:	X	
Trust:	X	
DPOA:	X	
HCP:	X	
Living Will:	X	
IRA Integration	X	
Recommendations:	Meet to review and discuss updating base estate plan	
Document Code:	Single 80-20	

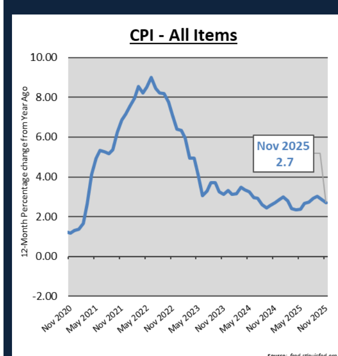
Miscellaneous

Promissory Notes Current:	$255k Payment due 6/25/2026 Matures 6/25/2030
QPRT Termination Dates:	2051, 2053, 2055, 2057
Crummey notices verified:	
Family Partnership	Minutes due 10-2026
Records Current?:	In Process
RBD Date: H/W	N/A
RBD Compliance:	N/A
RMD Compliance:	N/A

Legal Developments

Few relevant legal developments have occurred or appear on the horizon. Florida governor, Desantis, and President Trump are proposing tax reductions financed through increased revenues fueled by tariffs, the reduction of government waste, and increasing economic activity. More are likely to occur in 2026 as "affordability," becomes the political word of the day as the mid-term elections approach. Mid-terms often cause a shift away from the ruling party, and Trump and the Republicans have started to market lower fuel costs and the reduction of inflation- reported at 2.7%- to secure support for their political and economic agendas. Estate planners await developments on Belmont Investments, LLC., a tax court case addressing whether a tax cost basis adjustment occurs on assets held by an irrevocable trust on the death of the grantor. Many of our clients and their families may be impacted by this ruling, though it will likely be appealed.

Economic Developments



Observations

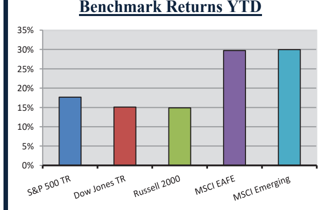
Favorable economic data stymied a market slide, buoying equity markets with signs that inflation is subsiding. The data is questionable and mixed, but there are reasons for optimism heading into 2026, and for continued positive financial market results. Reduced inflation provides room for more Fed rate cuts, though additional data will be necessary to confirm whether the Fed will be more accommodating. Questions remain whether AI can continue to pull the markets higher, while the breath of companies participating appears to be widening. Demand seems to exist, but whether sufficient electricity and computer "chips" will be available to meet the perceived demand are placing revenue estimates at risk.

Economic Statistics

	Reported	SGS
Consumer Inflation	2.74%	10.60%
Unemployment	4.32%	28.00%
GDP	1.99%	-1.51%

Source: BLS, ShadowGovernmentStatistics

Benchmark Returns YTD



James Sopko, Esq., LL.M.

Board Certified Tax Law

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Vehicles, Including Golf Carts, Pose Liability Risk

- $50 Million -

- How They Are Titled and Who Uses Them Matters -

The vicarious liability laws of Florida extend to all passenger vehicles, such as a car, pickup truck, SUV, van, and even golf carts. The person driving and the vehicle owners can both be responsible for economic and non-economic damages caused by the driver's wrongful acts or negligence. What's more, if the vehicles are jointly owned by spouses, the liability protections afforded them over tenancy-by-the-entireties property, and other forms of ownership may be lost. In a recent Florida case, a golf cart owned by a Miami couple was driven by their 16-year-old niece. She ran a stop sign and an automobile ran into them, ejecting her 12 year old friend who was left with brain and other catastrophic injuries. A Miami-Dade Circuit Judge entered a $50 million judgment against the couple who jointly owned the golf cart, as owners, who were vicariously liable under Florida's dangerous instrumentality doctrine for allowing the niece to operate the vehicle. A separate $18 million judgment was entered against the 16-year old's parents. Differing ownership forms of property have various consequences which should be considered with proper legal counsel.

Stefanie DelRusso, LA

Estate Planning

Alison Overton, LA

Estate Planning
Wealth Management

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Long and Short of it All

(continued from page 3)

Often these strategies are designed to generate losses to offset capital gains associated with a foreseeable event, thus the time horizon is known. The sale of a business, for example. Alternatively, they may be used as part of a plan to diversify a preexisting portfolio that has ossified (old with large unrealized gains), to mitigate investment risk. Note: various studies conclude, however, that the elimination of capital gains at death before a liquidating event outweighs the cost of a long-short loss harvesting strategy. The cost basis increase to fair market value at death is current law, but some in both of our political parties desire to eliminate this capital gain death benefit for a variety of policy reasons. Therefore, such a strategy can be considered a hedge, but again time value through a liquidating event becomes of major importance.

Various studies suggest that these strategies can work well, but much depends on timing and whether an "ossified" (old with large gains) portfolio or cash is used to form the base portfolio and whether the portfolio will be liquidated and when. Some studies conclude that long-only loss harvesting portfolios or low-cost ETF's may be more desirable than a long/short tax-managed equity portfolio after costs and fees are considered. In other words, buyer beware! They are sold by those making money, but suitability depends on a number of factors. The most important involves timing of realization of losses and gains that can be offset by those losses (the sooner that can happen the better), and the expenses incurred along the way.

We are often consulted on investment opportunities by our clients, as their lawyer and tax advisor. If you have any questions or comments, please feel free to contact us. ⚖

Planning Under The Big Beautiful Bill

(continued from page 8)

accounts ("IRAs") to benefit children under the age of 18. Contributions can only be made in calendar years before the beneficiary reaches the age of 18. Distributions from a Trump account can only begin the first day of the calendar year the beneficiary turns 18. At age 18, the Trump account turns into an IRA. Investments are restricted to mutual funds and indexed ETFs. Contributions are generally limited to $5,000 a year, inflation adjusted after 2027. By opening a Trump account for a child born between 2025 and 2028, taxpayers may receive a $1,000 contribution from the Government.

Here is what makes the Trump Account especially attractive:

- $1,000 one-time pilot contribution funded by the IRS for children born between 2025 and 2028
- Up to $5,000 per year from parents, guardians, and other individuals
- Up to $2,500 per year from employers, which may be contributed to an employee's child's account or to the employee's own account
- Additional qualified contributions from charities or government programs, where available.

This combination of government seed funding, employer contributions, and parental funding, compounding over 17 or more years, can provide a substantial head start for children of young families. The relative benefits of a Trump Account versus a 529 Account should be considered.

529 Account- Expansion: 529 plans are tax-advantaged savings plans that can help pay for college expenses. Contributions to a 529 plan are not deductible, but earnings grow tax-free. Withdrawals are tax-free when used for qualified education expenses. The account owner, e.g., the parent, can retain control over the funds and can change the beneficiary. Contributions can be made up to the gift tax annual exclusion amount, which is $19,000 in 2026. Additionally, gifts can be front-loaded for up to five years. If desired, a parent or grandparent could fund more using their gift and /or GST exemptions.

The BBB enhances 529 Plans to enable them to be used for enrollment in an elementary or secondary school. The BBB also allows tax-exempt distributions from 529 savings plans to be used for qualified post-secondary credentialing expenses. 529 plans have been a powerful planning tool, even more so after the BBB. Anyone planning for children, at almost any wealth level, should evaluate the possible benefits that come from 529 accounts. It appears that, other than the $1,000 government "gift" to Trump Accounts that 529 plans may remain superior. Some taxpayers may choose to fund 529 plans and only thereafter consider a Trump Account.

Alternative Minimum Tax (AMT): The AMT is a tax applied to high-income taxpayers to try to make sure that they pay a minimum level of tax. The AMT requires adding back certain tax deductions and adjustments to income, multiplying it by an AMT rate, and requiring the taxpayer to pay—at least—the AMT amount. The 2017 Tax Act modified the AMT by increasing the exemption and the level at which the exemption is phased out. The BBB makes the 2017 changes permanent. But the BBB reduces the exemption phase out minimum from $1,252,700 to $1,000,000.

Conclusion: The BBB affects seemingly every aspect of planning. Not only are the changes numerous and complex but the impact on planning is often far more complex than was initially assumed. Additional insight may be found here: https://kempelaw.com/wp-content/uploads/2025/07/BBB-pdf.pdf ⚖

Newest Members of our Tax Compliance Department

Christopher Manuchia, MBA

Mr. Manuchia joins our Wealth Management and Family Office Accounting department, where he will assist our clients with their accounting and tax planning and compliance. A graduate of Florida Atlantic University with a BA in Accounting and an MBA in Business Administration, he is a sitting candidate for his CPA license in Florida. Mr. Manuchia has over ten years of experience in Florida as a Project Manager, Accountant, and in Bookkeeping in the corporate and public accounting space, as well as in developing workflow systems and models to increase efficiencies and reduce operating costs.

Gabriel S. Schrader

Mr. Schrader also joins our Family Office Accounting department, where he will assist our clients with their bookkeeping, cash flow management, and accounting needs. Mr. Schrader is a graduate of Palm Beach Atlantic University with a BA degree in Accounting. Prior to attending Palm Beach Atlantic and moving to Florida from Buffalo, NY, Mr. Schrader was a college athlete (baseball) for the Medaille University Mavericks, where he maintained academic excellence and participation on the Dean's List. Mr. Schrader is active in community service.

Our Tax Compliance and Accounting Department, Multi-Profession Team Members

Our Wealth Management and Family Office Department makes us somewhat different from other firms, as it is centered on a collaborating team of tax lawyers, estate and property lawyers, accountants, financial analysts, and paralegals, all focused on integrating and overseeing estate, tax, and financial planning - true Wealth Management - for our clients.

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Tax Accountant and
Wealth Management
f/w WTAS LLC (Arthur Andersen)
Notre Dame, Masters of Accounting

Denise Alpert, CPA
Tax Accountant and
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f/w LKD and Deloitte Tax, LLP
Barry U, Masters of Accounting

Chris Bourdeau, CPA
Tax Accountant and
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USS Independence

Owen Bradley, CPA
Tax Accountant and
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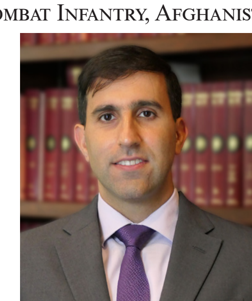
f/w Deloitte Tax, LLP
Combat Infantry, Afghanistan

Michael Hersey, CPA
Tax Accountant and
Wealth Management
f/w Deloitte Tax, LLP

Sharon Howard, CPA
Tax Accountant and
Wealth Management
f/w Pricewaterhouse and
Divine Blalock



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Kenneth Sokolsky, CPA
Tax Accountant and
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f/w Divine Blalock

James Treadway, CPA
Tax Accountant and
Wealth Management
f/w WTAS LLC (Andersen)

Julia Whalen
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Wealth Management
f/w RSM US, LLP
Fl. State Masters of Accounting

Maureen Lloyd Rigaudon
Tax Accountant
Bookkeeper
Wealth Management
Black Diamond® Analyst

Aaron M. Flood
Economic Analyst
Wealth Management
Black Diamond® Analyst

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Supreme Court Justice
Louis E. Brandeis

Tax Evasion vs. Avoidance

"I live in Alexandria, Virginia. Near the Supreme Court chambers is a toll bridge across the Potomac. When in a rush, I pay the dollar toll and get home early. However, I usually drive outside the downtown section of the city and cross the Potomac on a free bridge. This bridge was placed outside the downtown Washington, DC area to serve a useful social service, getting drivers to drive the extra mile and help alleviate congestion during the rush hour. If I went over the toll bridge and through the barrier without paying the toll, I would be committing tax evasion ... If, however, I drive the extra mile and drive outside the city of Washington to the free bridge, I am using a legitimate, logical and suitable method of tax avoidance, and am performing a useful social service by doing so. For my tax evasion, I should be punished. For my tax avoidance, I should be commended. The tragedy of life today is that so few people know that the free bridge even exists."

Carolyn Engvalson
Estate Administration
Fiduciary Services
Wealth Management

Donna Baummier, LA
Estate Administration
Fiduciary Services
Wealth Management

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A Second Home or Heirloom Property

(continued from cover)

The tax man is always involved as are the expenses associated with maintaining the property. Is the property already exempt from the federal wealth transfer tax system and state level probate and taxation, or does it remain a part of the taxable and probate estate of senior family members? This becomes the pinnacle question, as the tax on such a property and other family heirlooms, sets a tax and liquidity hurdle that must be overcome at the outset. Normally, it is best to assure these properties are exempt before death, through gift or other arrangements. Doing so assures that they are perpetuated without a burdensome liquidity event caused by the death of a patriarch or matriarch.

For Florida properties, maintaining Florida homestead during the lives of the patriarch and matriarch are a major concern. After their deaths, property tax valuation adjustments will often occur, and increased expenses will need to be shared. Often this is best accomplished using trust or holding company structures, where all heirs (or more properly their trusts) participate through an expense sharing understanding. This understanding is often best accomplished through a tenant in common or LLC ownership or use agreement. There are many alternatives and variations.

Where an heirloom property is agricultural, farm, or wilderness property, use of incentives to restrict future development through conservation easements can significantly lessen ongoing tax exposures. Estate, property, and income tax burdens can be lessened through conservation easement restrictions, without otherwise limiting the use contemplated by the owner and their families. This simply means the property can no longer be subdivided for more dense use and development, while historic ranching and agricultural uses may continue. In Florida for example, programs also encourage dedication of land to conservation, and the state will pay for such restrictions while the land owner maintains ownership and the use they desire.

Collectible assets, such as automobiles, firearms, watches, and unique art and collections are subject to similar wealth transfer issues. Many times, family members desire to perpetuate these heirlooms and treasures for family viewing and use, rather than dividing them in a manner that would permit sale or dissipation by one line of the family, where they may never be seen or used again by others. Properly inventorying and controlling title and use, often within a family compound, can accomplish these goals as well as others.

A museum? Yes, some families have accomplished the dual purpose of family perpetual control and use through non-profit museums. The need to permit periodic public viewing is seen as secondary to elimination of tax burdens and family perpetual pride of control and use of valuable and unique heirlooms.

As can be seen, a unique part of estate planning can involve many facets that are not solely focused on eliminating death taxes and dividing property values among heirs or others. It can involve perpetuating family pride of ownership and use of unique properties in a manner unique to a families goals and wishes, while lessening the wealth transfer tax cost so that those goals and wishes can be realized.

Jack Bogle Warning Reminder

- Regression To the Mean and Fund Runs -

Jack Bogle, the deceased founder of Vanguard and creator of index investing (ETF's), warned in 2017, that "If everybody indexed, the only word you could use is chaos, catastrophe… The markets would fail." He added, "What are the chances of everybody indexing? Its zero." He also supported the long-accepted premise espoused by Fama and French, that "reversion to the mean is the iron clad rule of markets." In other words, markets oversell and overbuy and regress to historic valuation means. Many are questioning whether the rule is true anymore, given the concentration of wealth in passive ETF funds where free riding occurs and price discovery is reduced in importance. We have written about the risks inherent with index investing in prior Client Updates, and recently passive funds crossed the 50% valuation threshold of all mutual funds and ETFs. It is the blind-eyed pouring of investment dollars into passive funds that some argue continually pushes markets and prices higher- including the influence of a few dominant stocks- in what is called "mean expansion." A self-fulfilling, indefinite bull run. Query whether 529 and Trump account investment mandates exacerbate this problem?

Some argue that retail investors who free ride on market discovery by blindly adding to ETFs can cause a liquidity crisis during black swan events, much like what happens with bank run deposit withdrawals. Others argue that these passive investors are more likely to hold positions in market downturns. Some who study the area are worried, however, that mean expansion will inevitably collapse in what old wisemen have dubbed an "iron clad" rule where valuation and competition for investment dollars matters. Some couple these observations with a recognition of current money supply- cash assets have dropped recently, prompting the Fed to ensure Treasury liquidity but not necessarily corporate or consumer liquidity. When needed, companies and consumers must turn to liquidation of ETFs and a run could commence. Nevertheless, valuation matters and if the rosy prognostications for 2026 materialize, the iron clad rule of regression to the mean and any runs may take a bit longer!

New Florida Laws See Substantial Increase In Use

- Income Tax Elimination and Florida Situs for Nonresidents -

As first written about on the cover of our Fall 2022 Client Update, the benefits of community property trusts and Florida trust protectors (trust directors) can be substantial. See https://kempelaw.com/wp-content/uploads/2022/10/Newsletter-FALL-2022.pdf Florida residents, as well as non-residents who choose a Florida administrative trustee subject to the direction of family members, may gain the tax advantage of the Florida community property law. As the cited article explains, the advantage is 100% capital gain elimination on the death of the first spouse, rather than what is often just 50%. Properly structured, the capital gain elimination of non-Florida real property can be achieved. Many clients are updating their estate plans to secure these benefits.

Families are also choosing to use Florida administrative trustees to avoid income taxes of foreign states. For example, heirs living in New York, Connecticut, Illinois, California, and others may inherit trusts that become subject to state income tax. These are often created by parents who were Florida residents at the time of the trust's establishment, which enhances their connection to Florida that satisfies common state statutory rules on "nonresident trusts" (those not resident for tax purposes). Maintaining situs through administration in Florida can be accomplished with an administrative or directed trustee, with family members or committees directing investment and distributions. Doing so has also proven beneficial for clients who sometimes migrate north to be closer to family, after the death of a spouse.

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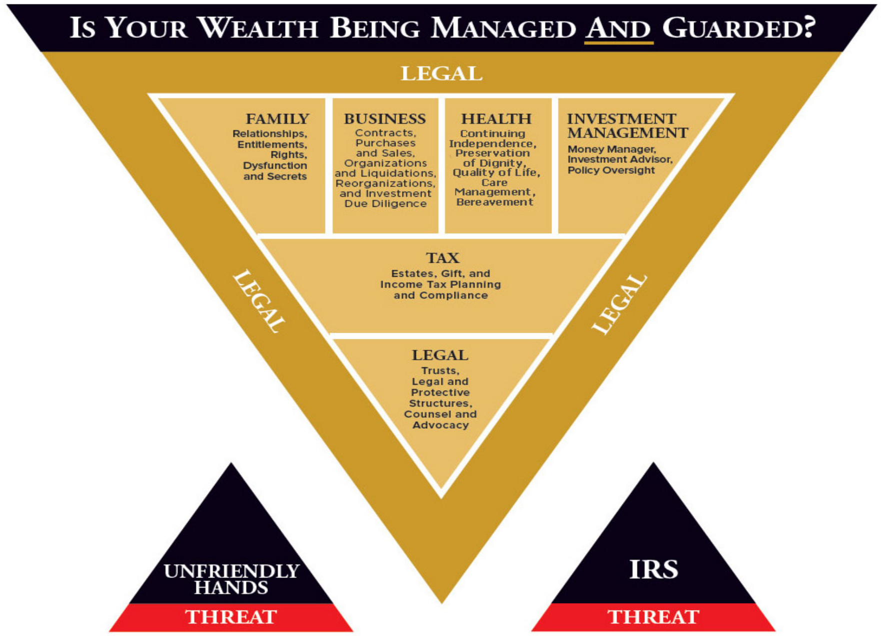
What Wealth Management Should Look Like But Popularly Doesn't!

- Don't Confuse Investment Management with Wealth Management -



Warren Buffett's Last Letter To Shareholders

- Estate Planning Advice -

On November 10, 2025, Warren Buffett released what is widely described as his last annual shareholder letter as the CEO of Berkshire Hathaway (the "Berkshire Letter"). We believe some of the observations in the Berkshire Letter may be of interest to our clients. We included quotes from the Berkshire Letter and some comments:

1. Warren Buffett's three children have three alternate trustees in the case the serving trustee dies or is disabled. "My children have three alternate trustees in case of any premature deaths or disabilities. The alternates are not ranked or tied to a specific child. All three are exceptional humans and wise in the ways of the world. They have no conflicting motives."

2. "One unpleasant reality: Occasionally, a wonderful and loyal CEO of the parent or a subsidiary will succumb to dementia, Alzheimer's or another debilitating and long-term disease. Charlie and I encountered this problem several times and failed to act. This failure can be a huge mistake. The Board must be alert to this possibility at the CEO level and the CEO must be alert to the possibility at subsidiaries.... Directors should be alert and speak up is all that I can advise."

It is common for us to witness clients with reduced and diminishing capacity. We are also finding that many are more frequently subjected to financial exploitation by third parties. Diminished capacity exacerbates the problem. Clients can consider executing a Trusted Contact Person form with their financial institutions, that are authorized under Florida Statutes Section 415.10341. This form designates one or more people as Trusted Contact Persons, with their financial institution so that their advisor may contact those designated in the event they suspect the client is being subjected to financial exploitation. Trusted Contact Persons cannot withdraw funds but are only advised if the financial institution is concerned the client is subjected to possible financial exploitation so that if the client's family member, caretaker, friend, lover, etc. is acting improperly with respect to the client, others will be contacted who may step in to resolve the situation. In the event there is a request for an unusual transaction or withdrawal, the financial institution will be authorized to contact specified individuals and notify them of such.

3. Warren Buffett's letter emphasizes the importance of kindness and respect with the following sentences:

a. "Kindness is costless but also priceless."

b. "Keep in mind that the cleaning lady is as much a human being as the Chairman."

Warren Buffett's philosophy on giving has often been referenced in our practice – "parents should leave their children so they can do anything but not enough that they can do nothing." While we understand that not every client will agree with Warren Buffett's philosophies, we wanted to share them with our clients.

Ringling Brother's Message

-Tax Filing Importance Can be Realized by Future Generations-

The IRS Can Come Knocking discussion on page 7 concerning transferee liability for estate and gift taxes is an important one. It is noteworthy to mention that the liability of persons who have received gifted or inherited property can exceed the value of the property received, in some circumstances. The executor should seek to mitigate these risks.

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Changing Domicile and Florida Homestead

(continued from cover)

In the *Matter of John J. Hoff & Kathleen Ocorr-Hoff*, a NY tax tribunal issued a ruling directed to 'snowbirds' that a true change in domicile is about substance, not paperwork, and determined that their substantial ties, including employment, gradual progression to make Florida their domicile, and other steps were self-serving and not substantive in nature. In *Hoff*, the tribunal held that a couple who claimed Florida residency nonetheless remained domiciled in NY despite having taken formal steps such as registering to vote, obtaining Florida driver's licenses, filing declarations of domicile, creating Florida estate planning documents, and spending less than 165 days in New York during one of the years at issue. An individual's domicile is their "true, fixed, and permanent home," while their residency is "simply a place where a person lives or stays for a period of time." An individual can have many residences but only one domicile.

The tribunal relied upon the following factors in reaching its conclusion that the Hoff's had not changed their domicile from New York to Florida. These included: (i) the Hoff's had continuing business activities in New York throughout 2018 and 2019, with a New York business address; (ii) Mr. Hoff remained employed with his prior New York company for several years after its sale; (iii) retention of their New York home and the length of time spent at their New York and Florida homes; (iv) the location of family in New York and near and dear items (Matter of Campaniello, Tax Appeals Tribunal, July 21, 2016, confirmed 161 AD3d 1320 [3d Dept 2018], lv denied 32 NY3d 913 [2019]); (v) location of social and community ties (maintaining country club memberships at the Canandaigua Country Club in Canandaigua, New York, and the Oak Hill Country Club in Rochester, New York, during the years at issue); and (vi) maintaining medical care providers in New York. The tribunal concluded that the Hoff's merely evidenced a gradual progression of steps over time to make Florida their permanent home and failed to meet the burden of proof to evidence they had "an absolute and fixed intention to abandon [their New York domicile] and acquire another" (Matter of Newcomb, 192 NY at 251).

Abandonment is commonly seen through the lens of a scale of justice, with acts of abandonment lifting one side of the scale in favor of closer connections to the other, which is weightier. Resignations from boards of charitable organizations and country clubs that are announced in local newspapers; listing a Northern home for sale or gifting it to trusts for family; establishment of nonresident versus resident memberships; published donations or notoriety associated with new donations or boards in Florida; working from Florida remotely with payroll established under Florida law; shipment records to Florida associated with relocation of family heirlooms and collectibles; family holidays spent in Florida; abandonment of ties to doctors, lawyers, accountants, and other professionals with new relationships established in Florida, are all acts which demonstrate a shift in indicia of domicile to Florida.

In Florida, the local property appraiser is generally the person who confronts whether you have become a permanent Florida resident (domiciled) when you apply for homestead. Their determination is not binding on another state. Generally, this is tested as of January 1 of the year in which homestead is sought. Homestead provides certain property tax benefits, but these benefits need to be carefully considered before applying if your Florida residence has been owned for a considerable period. An application can spark a revaluation of the residence and a surprise increase in the assessed value and resulting property taxes. Therefore, several factors should be considered before applying. For one, the missing factor of Florida's determination that domicile (permanent residence) has been established in Florida, may need to be overcome if homestead is not sought in order to avoid property tax increases.

The IRS Can Come Knocking For A Long Time

(continued from page 7)

In *U.S. v. Ringling*, (DC SD 2/21/2019), a district court found that beneficiaries were liable for an estate's unpaid tax liability under Code §6324(a)(2). The estate's federal estate tax was not paid when due and each beneficiary received property includible in the gross estate. If estate taxes are not paid, the IRS can seek collection of the taxes from such beneficiaries and recipients as transferees under Code §6324(a)(2). The time period on federal estate tax collections from a transferee is generally 10 years from the date the assessment of tax is made. In *Ringling*, the IRS filed suit in the 9th year of that 10-year period, or 19 years after the date of death.

The Ringling case illustrates:

(a.) Transferee liability extends to recipients of all property included in the gross estate including:

1. Transferees of lifetime gifts from the decedent that are included in the gross estate under Section 2035 because made within 3 years of death;
2. Gift recipients whose gift was a discharge of indebtedness to the decedent;
3. Property as surviving joint tenants;
4. Property passing to remaindermen when the decedent had a life tenancy in the property; and
5. Life insurance proceeds on the life of the decedent.

7520 Rate History

	2026	2025	2024	2023	2022
Jan	4.6	5.2	5.2	4.6	1.6
Feb		5.4	4.8	4.6	1.6
Mar		5.4	5.0	4.4	2.0
Apr		5.0	5.2	5.0	2.2
May		5.0	5.4	4.4	3.0
June		5.0	5.6	4.2	3.6
July		5.0	5.4	4.6	3.6
Aug		4.8	5.2	5.0	3.8
Sept		4.8	4.8	5.0	3.6
Oct		4.6	4.4	5.4	4.0
Nov		4.6	4.4	5.6	4.8
Dec		4.6	5.0	5.8	5.2

Use of the 7520 rate is required in many estate tax planning strategies, including GRATs and QPRTs. Generally, the higher the rate the better for QPRTs, GRATs, and some other advanced tax planning techniques.

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Conservation Easement Property

(continued from cover)

The IRS has long granted the ability of taxpayers to deduct the present value of the granted easement as a charitable deduction from the taxpayer's income. However, the availability of the deduction is subject to certain restrictions on the transaction. Internal Revenue Code ("IRC") §170(a)(1) allows for a deduction for any charitable contribution made during the taxable year. The recipient must be a "Qualified Organization" defined under IRC §170 (h)(3) and for purposes of a conservation easement, the easement must protect the conservation easement in perpetuity pursuant to Treas. Reg. § 1.170A-14(g). A "Qualified Conservation Contribution" is defined in IRC §170(h) as a contribution of a Qualified Real Property interest to a Qualified Organization exclusively for Conservation Purposes. A "Qualified Real Property Interest" is defined under §170(h)(2) as: (A) the entire interest of the donor other than a qualified mineral interest; (B) a remainder interest; or (C) a restriction (granted in perpetuity) on the use which may be made of the real property. The latter includes a conservation easement. A "Conservation Purpose" is defined under IRC §170(h)(4) to include the preservation of land areas for outdoor recreation or education of, the general public and the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem among other purposes.

When determining the amount of the charitable deduction resulting from the sale or contribution of a conservation easement, Treasury Regulation §1.170A- 14(h)(3)(i) provides that you utilize the "Before and After Approach" in the absence of comparable sales data. This requires appraisal of the property before and after the easement exists. The difference between the value prior to and after the easement encumbers the property, is deemed the easements fair market value ("FMV"). This amount, in the context of a conservation easement contribution, is the amount of the charitable deduction. However, if the conservation easement is sold to a Qualified Organization, the calculation differs. Many state programs exist throughout the United States to encourage conservation of open and agricultural lands, where funds are available to purchase easements -the landowner gets paid to encumber their property with an easement.

In the context of a conservation easement sale to a Qualified Organization, the charitable deduction is still calculated through use of the Before and After Approach absent any comparable sales data. However, since proceeds are being received from the sale, these proceeds need to be recognized for tax purposes. If the Qualified Organization pays less than the FMV, it is considered a bargain sale. As a result, a charitable deduction is also available, calculated by taking the difference between the Before and After Approach values less any consideration received from the sale to the Qualified Organization (See §1.170A- 14(h)(3)(i) and Browning v. Commissioner 109 T.C. 303, 1997). For example, if a taxpayer sells a parcel of land to a "Qualified Organization" defined under Internal Revenue Code ("IRC") §170(h)(3), the taxpayer may be eligible for a charitable deduction pursuant to IRC §170 for the difference between the Fair Market Value ("FMV") of the property before and after the easement is granted pursuant to Treasury Regulation §1.170A- 14(h)(3)(i). If a qualified appraiser determined the FMV of a property at $1,000,000 before the easement, and a value of $300,000 following the sale of the easement to a Qualified Organization, the easement would have a FMV of $700,000. If you received $400,000 from the Qualified Organization as consideration for the sale, the difference between the FMV of the easement, $700,000, and the consideration received, $400,000, is considered the available charitable deduction. Therefore, a charitable deduction of $300,000 is available subject to Adjusted Gross Income ("AGI") limitations. This deduction can be utilized to offset any gain incurred by the sale to the Qualified Organization. Any remaining deduction limited by AGI thresholds can be carried forward to be utilized in future years.

The most important factor in these cases is the valuation of the property both before and after the easement encumbers the property. Most charitable deductions claimed that are overturned and reduced by courts are because of inflated valuations that do not accurately depict the loss in value of the property from the encumbering easement. Qualified appraisals from qualified appraisers are essential for these purposes, and there exists procedures for advance agreement with the IRS on the valuations. The IRS advance procedure for agreeing on the valuation of conservation easement charitable deductions is a valuable resource for taxpayers seeking to navigate the complexities of tax deductions related to conservation efforts. Engaging in this process can mitigate future disputes and ensure a smoother tax experience.

Those seeking second homes with acreage should also consider properties encumbered by conservation easements. These properties can often be acquired for fractions of the cost of properties that are unencumbered, from future subdivision and development. Often there exists portions of the property that can be developed for one's personal use. For example, if a farm, ranch, or mountain property is desired for a second home, often that home can be constructed without limitation on portions of the whole property that are excluded from development restriction. A recent example is a 200-acre ranch in Colorado surrounded by 1 million acres of National Forest Land, which has a 5-acre exclusion zone that can be developed for up to three residences for a single family. Restricting further development is often consistent with the families' multigenerational desires, with the loss of multifamily development rights inconsequential.

Florida Has No Income or Inheritance Taxes, But Other Taxes Exist

- Taxes on Real Estate Transactions -

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Frequently when closing a real estate transaction, the standard form contract used in Florida requires a seller to pay documentary stamps on the deed. It is common for a seller, typically an out of state seller, to question that charge on the closing statement. For example, on a recent $5,000,000 sale the documentary stamp tax was $35,000, as the rate on a deed is 70 cents per $100 of the consideration.

There are also documentary stamps taxes on a mortgage, and the rate is 35 cents per $100 of consideration. (There is also an intangible tax on a promissory note issued in connection with a mortgage and the rate is 20 cents per $100 of the loan amount.) It is projected that in 2025 Florida will collect $3.89 billion in documentary stamps, approximately 3.4% of Florida's annual budget.

The stamp tax applies to all real estate transactions unless there is no consideration, such as a gift or a transfer into a trust. When a deed or other written document transfers real property or an interest in real property to a purchaser for monetary consideration or any other consideration with a reasonably determinable dollar amount (such as the mortgage indebtedness encumbering the real property) documentary stamps must be paid.

The stamp tax also applies to written obligations to pay money, such as mortgages, promissory notes, and other evidences of indebtedness that are executed, delivered, sold, transferred, or assigned in Florida. They must be paid before the obligations may be enforced by a Florida court of law.

To determine whether the stamp tax is applicable, certain fundamental questions should be asked:
• Is the property considered "real property" or an "interest" in real property?
• Is there "consideration" in the transaction?
• Is there a written obligation to pay money that is fixed and absolute or secured by a mortgage or other security document recorded in Florida?
• Is a real property interest being transferred to a "purchaser" or another party at the purchaser's direction?

The concept of "consideration" is critical in determining whether the stamp tax applies. In general, consideration refers to something of value exchanged in a transaction, such as:
• Money paid, or an agreement to pay money;
• Mortgage indebtedness encumbering the property (whether or not assumed);
• A discharge from an obligation; and
• Tangible or intangible property given in exchange for real property.

Certain transactions are exempt from the stamp tax or may be subject to a minimum tax. Examples of transactions subject only to minimum stamp taxes include:
• Gifts transferring unencumbered real property (Note: gifts involving mortgaged property are subject to tax based on the unpaid mortgage balance);
• Corrective deeds (used to correct deficiencies in prior deeds where tax was already paid);
• Other conveyances that were previously taxed; and
• Properly structured transfers of shares of entities that own real property. See *Crescent Miami Center, LLC.*

Some transfers are specifically exempt from the stamp tax under Florida law. These include:
• Transfers by judicial decree or condemnation;
• Business entity mergers;
• Transfers by inheritance or other transfers by operation of law;
• Transfers in connection with divorce;
• Transfers of preservation lands to governmental authorities by non-profit organizations;
• Transfers pursuant to bankruptcy plans of reorganization or liquidation; and
• Deeds from a personal representative to a devisee under a will.

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