CLIENT UPDATE *and wealth advisor*

WINTER 2018

KEMPE

Law | Estates | Tax | Wealth

Offices in Jupiter, Stuart & Vero Beach

IN THIS ISSUE

FAMILY TRANSITION AND ESTATE PLANNING

- STABILIZING AND REPORTING REDUCES COST, FEAR, AND EMOTIONS -

Our clients are getting older and so are we. Through years of experience with clients and their families we have seen quite a lot, and the Firm has evolved to address what we have seen. Clients age, a spouse dies, memory loss occurs and progresses, bodies physically fail, while children may worry and try to assist from up-North. Someone has to lead! Family dynamics and capabilities can play a huge role (positively or negatively) in the

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PLANNING FOR THE "NEXT" TAX REFORM

- CURRENT ESTATE AND GIFT TAX EXEMPTIONS EXPIRE -

The Tax Cuts and Jobs Act of 2017 ("TCJ Act") has doubled the estate and gift tax exemption for 2018 to $11.18 million per person. That's the good news! The bad news is whether it can be used depends on acting (or dying) before the earlier of change by a new Administration (2021?) or 2026, when under the TCJ Act the increased exemptions expire. Furthermore, the generation skipping tax ("GST") exemption has similarly been increased to $11.18. The estate, gift, and generation skipping exemptions are all increased annually for inflation, until they expire.

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MUSINGS UNDER NEW CODE SECTION 199A

- THE FOCUS OF MOST SMALL BUSINESS AND REAL ESTATE INVESTORS -

One of the more controversial provisions of the Tax Cuts and Job's Act of 2017 ("TCJ Act") given last minute changes, is new Code Section 199A. It is a boon to private business investment and the real estate industry and is a focus of much commentary. Its aim is to foster investment in real estate and small businesses and, when coupled with certain other tax benefits offered for new investment, it does so in a unique way that differs from historic methods of cost recovery type tax incentive. For example, under the Economic Recovery Tax Reform Act of 1981, Reagan's incentives offered

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SO YOUR ESTATE ISN'T $ 11.18 ($22.36) MILLION?

- DON'T GAMBLE -

Don't gamble on the size of your estate or what the exemption will be at death. The bias should be making sure your estate is exempt from taxation. That said, avoiding estate tax generally means transferring a decedent's capital gains to heirs. Proper estate planning can achieve both, by avoiding estate tax and stepping-up cost basis to date of death values, thus permitting heirs to sell inherited assets without estate or capital gains tax.

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THE UNAVOIDABLE AND TRANSITION
- GOD AND GOVERNMENT CAN'T BE MANAGED, BUT WE CAN TRY AND MAXIMIZE WHAT THEY GIVE US -

The focus of this Client Update is managing transitions through process and proper planning. Life evolves and we are thrown obstacles and hurdles that we can't control or often even anticipate. Life can be tough enough without government imposed changes that affect us in unwanted ways. There can also be unanticipated opportunities that pass us by, without us recognizing the benefits that have been foregone. Planning and studies that anticipate future hurdles or opportunities can lessen the impact of the negative or avoid loss of the positive, but it is unlikely that one will anticipate exactly what will happen and when. Therefore, planning for contingencies and not doing so too narrowly will lessen the potential for loss or lost opportunities.

Significant tax reform is not common. The Tax Cuts and Jobs Act of 2017 (the "TCJ Act") is the most significant in the 31 years since the Reagan years. Much of recent piecemeal reform has come with rules that sunset or expire, leaving individuals to plan for future events without certainty of what rules will apply. I always tell clients if they can tell us when they will die, we can nail their planning. Some very successful clients did in fact nail it, dying in 2010 like George Steinbrenner did, when the estate tax under President W. Bush's ten year budget window was repealed for one year. Billions of estate taxes were avoided that year- it is estimated Steinbrenner's "timely" death alone saved his family $600 million of estate tax.

Estate plans these days tend to be more complicated than in the past because they must confront varying time periods where different rules apply. Within these time periods, where the estate tax exemption may be lower, the bias may be estate tax reduction. Where the exemption is higher (in 2018 jumping from $5.6 million to $11.18 million per person), the bias may be income and capital gains tax avoidance because no estate tax will be incurred. Facing these unknowns requires the drafting of formula provisions in wills and trusts that contemplate change, and only if contemplated can one potentially avoid loss of future benefits. Thus, drafting estate plans has grown more complicated and specialized.

Health care systems and care evolve too! Not knowing one's future health and medical condition, what services, institutions, and facilities will be needed, and attendant cost are also unknowns that can impact transition. It wasn't too long ago that a reference to "nursing home" carried a stigma that was so negative, that health care documents would prohibit their use. Nowadays assisted living environments carry a much more favorable connotation, much like fancy resorts, and we have seen some clients thrive in them where otherwise they would deteriorate at home and alone.

Our role has evolved more and more to helping clients and their families with life's transitions and this Client Update illustrates some examples, including a repeat of the planning that was undertaken in anticipation of prior fiscal cliffs in 2012 and 2016, when laws were set to trigger lower estate tax exemptions. Some people were ready, while others saw the opportunities pass by.

Happy New Year and All the Best in 2018!

"Hello, I'm Death and Taxes.... We merged."

Joseph C. Kempe

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Using Tax Reform To Your Advantage

- Far From Being Made Simpler, But Plenty of Benefits -

Much has been written on the changes in tax law occurring under the Tax Cuts and Jobs Act of 2017 ("TCJ Act"), but little exists on planning under the law because not much guidance has been provided through IRS regulations or notices. New concepts and planning opportunities exist throughout these new laws. Nevertheless, planning to realize the greatest benefits for individuals and families can be broken down into a few key areas. This summary, though far from comprehensive, is intended to highlight the opportunities created under these new laws and to recommend a process by which individuals and their families can gain the greatest advantage.

Estate Tax

As mentioned elsewhere in this Client Update, the estate, gift, and generation skipping tax exemptions have increased to $11.18 million per person in 2018, effectively eliminating wealth transfer taxes on a $22.36 million estate of a married couple. This doubling of the exemptions, however, isn't so dramatic when one realizes the DOW and S&P 500 have doubled since 2012, the year ending with the last fiscal cliff. These exemptions have just kept-up with market valuations. Similar to the W. Bush 2001 tax reform, the increase is indexed for inflation and is a temporary legislative reconciliation process that forces a 10 year budget window. The increased exemption will sunset and will present us with a "fiscal cliff" in 2025, after which the exemptions return to pre-2018 levels. This assumes there is not a dramatic change in our government, as could occur in 2021. A Democrat platform seeks to decrease the exemptions to $3.5 million and eliminate many of the estate planning strategies that exist today. Therefore, using the exemptions and

See Using Tax Reform To Your Advantage on page 8

Asset Allocation and the Passive Active Debate

- Buffet Won His 10 year 2007 Index Bet! -

What really causes investment portfolio performance? The first attempt to answer these questions was made by Brinson, Hood, and Beebower (BHB 1986) more than two decades ago in their article "Determinants of Portfolio Performance." BHB regressed the time-series returns of each active fund on a weighted combination of benchmark indices reflecting each fund's policy. They found that the policy mix explained 93.6 percent of the average fund's return variation over time (as measured by the "R2"- statistical determination). According to Roger Ibbotson in a 2010 article in Financial Analysts Journal, BHB's time-series results were not very sensitive to each fund's asset allocation policy because most of the high R2 came from market performance and momentum. Ibbotson and Kaplan (2000) and Hensel, Ezra, and Ilkiw (HEI 1991) pointed out that most of the variation in a typical fund's return comes from market movement. Professors Fama and French have confirmed this. The funds differ by asset allocation, but almost all of them participate in the general market instead of just holding cash. The BHB (1986) study spawned a large amount of literature, most of it published in the Financial Analysts Journal. Ibbotson studied the debate and concluded that BHB captured the performance from both the market movement and the incremental impact of the asset allocation policy. The first part is the decision to be in the market instead of cash, an allocation in and of itself. Ibbotson further claims that the BHB methodology incorrectly ascribed all 100 percent of the return variation to asset allocation, whereas, in fact, all the variation came from stock selection because otherwise they were "in the market." Ibbotson concludes that about 75% of a typical active managers variation in time-series returns comes from general market movement, with the remaining portion split roughly evenly (12.5% each) between asset allocation and active management (stock selection). That, however, disregards allocations to a variety of unconsidered asset classes if the investment policy permits.

Which market one is in is itself an allocation and so is being in cash. Much has been written on use of passive index funds versus active managers, with most studies concluding that active managers seldom beat the passive indexes or benchmarks. Warren Buffet's 10 year 2007 bet that the S&P 500 index would outperform a

See Is Your Asset Allocation and the Passive Active Debate on page 5

You Are In Control

Thoughtful drafting of Advance Health Care Directives, maintaining their relevance as your health status changes, and communication of your desires to loved ones and physicians has proven to be the most secure method for achieving a "good death" when the time comes.

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Health Management and Reporting

- A Proposal -

THE ISSUE:

With our growing population of elderly, management of the living needs of senior family members has become an increasingly important family burden and aspect of our practice here at Kempe. Several examples are spread through this Client Update. The Twenty-First Century is experiencing a population shift. For the first time the major demographics are reflecting a growth in not one but two generations of retirees. As a result, health issues in both the younger generation of retirees and older have increasingly become a factor in managing retirement. A first priority is to have the legal documents for surrogate decision making in place, so that in the event of incapacity a selected person can make decisions. A second is to familiarize the client with the types of advance directives available. Whether they are executed is not as important as is the education of the client to their existence and availability when desired. Education requires both time and timing. Under the best of circumstances, a client learns of their availability before they are in fact needed. Decisions concerning Do Not Resuscitate Orders, Physician Orders on Life Sustaining Therapy, Organ Donation, and the more well-known Living Will while still healthy allows one to understand their significance, without feeling anxious about needing to make decisions when on the brink.

The importance of having a team available should various circumstances arise cannot be underestimated. Developing an appropriate team to manage these needs is a result of networking and relationship development, so that a variety of services can be available and appreciated by the team and designated family members. It is impossible for a person or even a couple to prepare the "team" who might be called or required, because of the legal and medical knowledge required. On the other hand, it is reasonable to expect a health management team to offer this type of solution.

The last and ultimate task of appropriate health care management and reporting is coordination of any required services and reporting to and within such an established team, and integral or peripheral family members. This is the most rewarding aspect of the effort, but again requires a significant amount of time and often travel to facilities or house calls. However, it is this piece that is the most sought after by far flung families who are unable to relocate closer to the person in need of assistance and oversight (the "Client").

THE PLAN:

1. Preparation of Legal Documents.
    - Education of the Client regarding choices to be made.
    - Define the team involved, at each location of residence.
    - Formulate a specific Advance Directive based on Client's personal and contemporaneous health status.
    - Amend as health situation changes.

2. Communication of Client wishes:
    - Educate Client of need to inform the team and family members of his or her health care desires and philosophies .
    - Inform physicians
    - Inform family or friends, when no family is available.

3. Monitor Client health on an annual basis until more frequent monitoring is required.

4. Assist with the Plan of Care if and when necessary, but particularity upon hospital discharge.

5. At various stages of need, educate the Client to suggested or available services. For example:
    - Case manager;
    - Care manager;
    - Home health agencies;
    - Live-in support services or individuals;
    - Day care facilities for Alzheimer's care while remaining at home; and
    - Hospice services.

6. As needed, educate Client as to available living arrangement or facilities:
    - Independent living facilities;
    - Assisted living facilities;
    - Memory care units; or
    - Skilled nursing home facilities.

When desired, arrange for introduction and tours.

7. Coordinate desired services and serve as "required to report to" person.

8. Monitor quality of life plans and whether client being kept interested and happy as far as possible.

9. Coordinate and supervise if needed health Care Surrogates and DPOA persons. Interface with other family if necessary.

10. Provide support to caregivers.

11. Funeral arrangements if desired. Particular attention to organ donation and /or cremation desires of client.

12. Intervene in Court as needed to protect Client wishes and safety.

13. Serve as resource for bereavement counseling and future planning based on particulars (e.g. death of spouse)

14. Assess financial cost and consider either or both veterans' benefits /Medicaid when applicable.

15. Provide reports to all team members as indicated to maintain open communication and current status of client.

COST

As discussed by Joe Kempe elsewhere in this Client Update, costs can become unfathomable if not controlled and stabilized. Much of the cost can be controlled by having an appropriate plan and team in place, with supporting legal and medical directives. Our typical approach is to assess the situation and to set fixed fees for the work required. It has been our experience that with proper attention substantial financial and personal cost can be controlled and reduced.

Asset Allocation and the Passive Active Debate

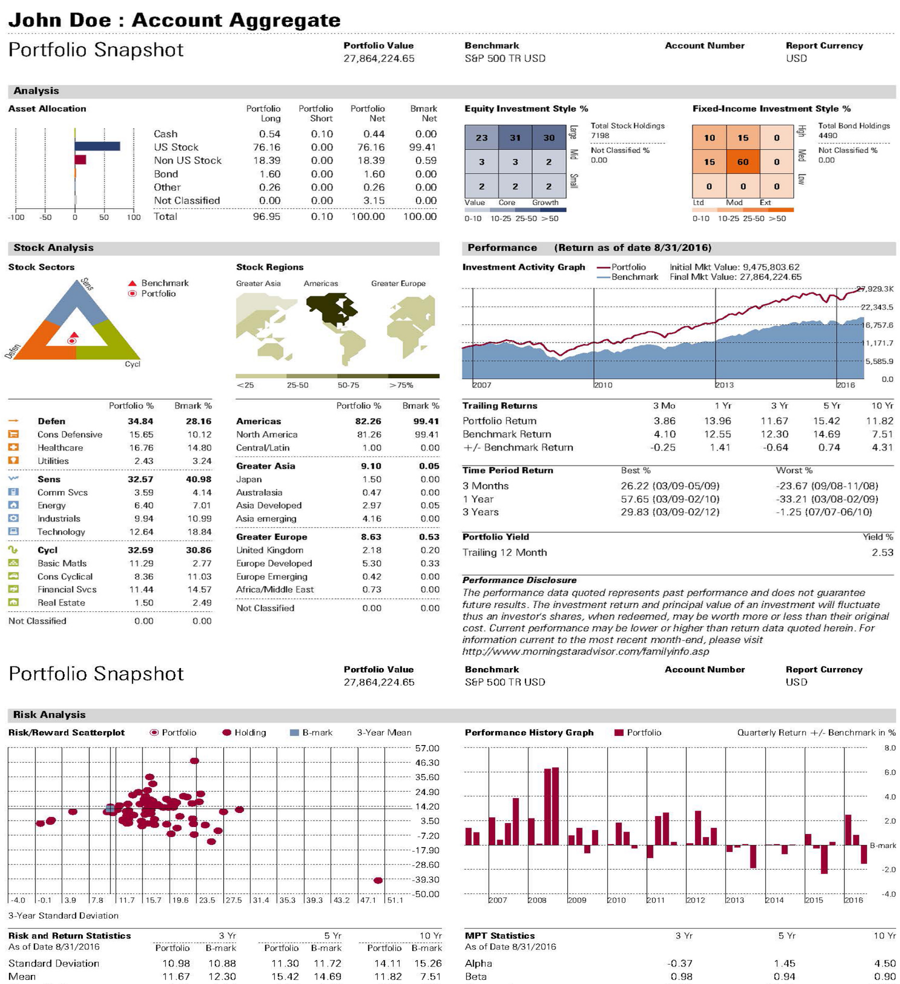
(continued from page 3)

basket of active hedge fund investments proved true with the S&P index up 7.1% compared to 2.2% on the basket selected by asset manager Protege' Partners. When one digests this further, one realizes that this is true with large active markets (the Dow and S&P 500, for example), but becomes less so with markets that are inefficient. Efficiency has to do with whether information efficiently flows within the market in a timely manner. Some theorists suggest that the "efficient market concept," means all information that should be known is in fact known, leading to the inability to have mispricing or undervalued opportunities. Therefore, reduction of cost becomes a priority in accessing efficient markets, and this is where the studies promote the benefits of passive index investing - a less costly alternative. Again, in large active markets studies have proven this true, but in less efficient markets active management has proven to offer benefits warranting increased cost. For example, small cap, emerging, and frontier markets are less efficient markets where studies suggest active management can be warranted and worth the cost. So, in conclusion, asset allocation is important to capture market momentum, particularly in efficient markets and in those markets passive investing is less costly. Active management at an increased cost is appropriate when one wanders into allocations that are less efficient amd riskier, such as small cap, emerging, and frontier markets. But, perhaps more important is what market you are in as there are many investment markets, with some being more speculative than others. For example, in an earlier publication Ibbotson found that an allocation to REIT's improved investment peformance. Some years being in cash, gold or commodities may do best. Over the long term, however, the equity markets have faired best and most managers these days tend to serve their clients best by reducing cost and suggesting balanced portfolios with tactical tilts to proven markets based upon fundamental market cycles. Optimization depends on the level of risk one desires to take, which itself is dependent on time horizon of cash flow needs.

Liability of Executors and Heirs
- It Can Go on for Years -

The recent case of **Myers v. Commissioner** reminds us that the liability of executors and heirs can extend for decades if an estate is not correctly managed. The IRS has a 10 year time period from date of death in which to file a lien, and 10 years starting within that period in which to collect federal tax deficiencies against the executor and heirs, receiving property from a decedent. It doesn't matter how received or whether part of a probate estate or a transfer as part of a prior gift. See **Myers**, TC Memo. 2017-11. Furthermore, state law creditors of a decedent are not barred from chasing assets received by heirs if they were reasonably discoverable and not provided proper notice. A statutory two year period may foreclose them, if fraud didn't exist. If fraud exists the statutory period of recovery remains open.

How We View Client Portfolios in Morningstar to Assess Risk
- Just One Lense That We Use To See -



John Doe : Account Aggregate

Portfolio Snapshot — Portfolio Value 27,864,224.65 — Benchmark S&P 500 TR USD — Account Number — Report Currency USD

Analysis

Asset Allocation

	Portfolio Long	Portfolio Short	Portfolio Net	Bmark Net
Cash	0.54	0.10	0.44	0.00
US Stock	76.16	0.00	76.16	99.41
Non US Stock	18.39	0.00	18.39	0.59
Bond	1.60	0.00	1.60	0.00
Other	0.26	0.00	0.26	0.00
Not Classified	0.00	0.00	3.15	0.00
Total	96.95	0.10	100.00	100.00

Equity Investment Style %

	Value	Core	Growth
Large	23	31	30
Mid	3	3	2
Small	2	2	2

Total Stock Holdings 7198
Not Classified % 0.00

Fixed-Income Investment Style %

	Ltd	Mod	Ext
High	10	15	0
Med	15	60	0
Low	0	0	0

Total Bond Holdings 4490
Not Classified % 0.00

Stock Analysis

Stock Sectors — Benchmark, Portfolio

	Portfolio %	Bmark %
Defen	**34.84**	**28.16**
Cons Defensive	15.65	10.12
Healthcare	16.76	14.80
Utilities	2.43	3.24
Sens	**32.57**	**40.98**
Comm Svcs	3.59	4.14
Energy	6.40	7.01
Industrials	9.94	10.99
Technology	12.64	18.84
Cycl	**32.59**	**30.86**
Basic Matls	11.29	2.77
Cons Cyclical	8.36	11.03
Financial Svcs	11.44	14.57
Real Estate	1.50	2.49
Not Classified	0.00	0.00

Stock Regions — Greater Asia, Americas, Greater Europe

	Portfolio %	Bmark %
Americas	**82.26**	**99.41**
North America	81.26	99.41
Central/Latin	1.00	0.00
Greater Asia	**9.10**	**0.05**
Japan	1.50	0.00
Australasia	0.47	0.00
Asia Developed	2.97	0.05
Asia emerging	4.16	0.00
Greater Europe	**8.63**	**0.53**
United Kingdom	2.18	0.20
Europe Developed	5.30	0.33
Europe Emerging	0.42	0.00
Africa/Middle East	0.73	0.00
Not Classified	0.00	0.00

Performance (Return as of date 8/31/2016)

Investment Activity Graph — Portfolio, Benchmark — Initial Mkt Value: 9,475,803.62 — Final Mkt Value: 27,864,224.65

Trailing Returns	3 Mo	1 Yr	3 Yr	5 Yr	10 Yr
Portfolio Return	3.86	13.96	11.67	15.42	11.82
Benchmark Return	4.10	12.55	12.30	14.69	7.51
+/- Benchmark Return	-0.25	1.41	-0.64	0.74	4.31

Time Period Return	Best %	Worst %
3 Months	26.22 (03/09-05/09)	-23.67 (09/08-11/08)
1 Year	57.65 (03/09-02/10)	-33.21 (03/08-02/09)
3 Years	29.83 (03/09-02/12)	-1.25 (07/07-06/10)

Portfolio Yield	Yield %
Trailing 12 Month	2.53

Performance Disclosure
The performance data quoted represents past performance and does not guarantee future results. The investment return and principal value of an investment will fluctuate thus an investor's shares, when redeemed, may be worth more or less than their original cost. Current performance may be lower or higher than return data quoted herein. For information current to the most recent month-end, please visit http://www.morningstaradvisor.com/familyinfo.asp

Portfolio Snapshot — Portfolio Value 27,864,224.65 — Benchmark S&P 500 TR USD — Account Number — Report Currency USD

Risk Analysis

Risk/Reward Scatterplot — Portfolio, Holding, B-mark, 3-Year Mean — 3-Year Standard Deviation

Performance History Graph — Portfolio — Quarterly Return +/- Benchmark in %

Risk and Return Statistics As of Date 8/31/2016	3 Yr Portfolio	3 Yr B-mark	5 Yr Portfolio	5 Yr B-mark	10 Yr Portfolio	10 Yr B-mark
Standard Deviation	10.98	10.88	11.30	11.72	14.11	15.26
Mean	11.67	12.30	15.42	14.69	11.82	7.51
Sharpe Ratio	1.05	1.11	1.32	1.23	0.80	0.50

MPT Statistics As of Date 8/31/2016	3 Yr	5 Yr	10 Yr
Alpha	-0.37	1.45	4.50
Beta	0.98	0.94	0.90
R-squared	95.22	95.22	96.00

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7520 Rate History

	2017	2016	2015	2014	2013
Jan	2.4	2.2	2.2	2.2	1.0
Feb	2.6	2.2	2.0	2.4	1.2
Mar	2.4	1.8	1.8	2.2	1.4
Apr	2.6	1.8	2.0	2.2	1.4
May	2.4	1.8	1.8	2.4	1.2
June	2.4	1.8	2.0	2.2	1.2
July	2.2	1.8	2.2	2.2	1.4
Aug	2.4	1.4	2.2	2.2	2.0
Sept	2.4	1.4	2.2	2.2	2.0
Oct	2.2	1.6	2.0	2.2	2.4
Nov	2.4	1.6	2.0	2.2	2.0
Dec	2.6	1.8	2.0	2.0	2.0

Use of the 7520 rate is required in many estate tax planning strategies. Generally, the lower the rate the better. Those that acted in the second half of 2016, and who act before rates significantly rise further, have or will benefit.

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Family Transition and Estate Planning

(continued from cover)

transitions that can cause a major impact on clients and their families. Costs can skyrocket if not stabilized and maintained! These transitions involve essentially three common themes: (1) financial, (2) health and quality of living, and (3) family dynamics, each of which are discussed in this note.

Memory loss and deteriorating health can cause family disfunction. This disfunction can be exacerbated when other family members are themselves unstable as a result of mental illness, substance abuse, or other conditions (especially sibling relations) that feed a lack of stability. At its simplest, a senior family member needs assistance to preserve independence. Other family members may be reliant on that senior family member for guidance or assistance, and at times find themselves distraught and themselves with increasing dysfunction. At its extreme, all family members are incapacitated or incapable of managing the matters at hand. For example, in one recent situation, Dad was in his 90s and failing and accustomed to managing the family members, family wealth, and the family's circumstances. Mom was living in an assisted living memory unit. Son has psychological problems, that were exacerbated by Dad's deteriorating medical condition, causing him to be Baker Acted twice within one month's time. Daughter lives in South America. In these circumstances, the costs of addressing financial, health, and family dynamics can be extreme, if the circumstances aren't stabilized within an efficient system that can be managed at the least possible cost. By assisting this family to recognize and establish expectations satisfied by proper reporting and oversight, matters became stable and costs reduced to their lowest level. We do this as the family's lawyer and a properly trained lawyer who advocates for their client is the best person(s) capable of addressing the multi-faceted dynamics of circumstances like these.

Stabilizing family circumstances and dynamics is best addressed by two simultaneous assessments. The family income needs are determined and the financial resources available to generate that income are analyzed. Simultaneously, the living environment and care needed for family members is assessed. When confronted with family needs such as these, we typically assemble a team of attorneys, CPAs, analysts, and legal assistants to assess the circumstances in order to establish the most efficient and cost effective way of stabilizing the family dynamics. Investment policies will be reviewed for income potential, risk, unrealized gains, and other tax attributes; legal documents and advanced directives will be reviewed for successor decisions makers, which may or may not be members of this Firm; budgets will be established with family assistance; health care needs and plans of care will be determined; and a cohesive plan will be proposed with an estimated cost to implement and manage the circumstances. Where we are not the decision-maker, financial, investment, and health care reporting and processes will be proposed for purposes of keeping distant family members and decision makers informed.

From a legal standpoint proper documents and advance directives provide a foundation of stability that can be maintained. From a financial standpoint, investment policy, tax, and risk play important factors in a family's cash flow and means of satisfying a given quality of life, family obligations, and family objectives. Quality of life and attendant care can be impacted by all of the above and can best be assessed by a health care advocate, familiar with both the medical and legal aspects involved, particularly when supported by a knowledgeable team of estate, investment, and tax planning professionals. At this Firm, our role is increasingly fulfilling these roles as the family attorney who advocates for stability and a reduction of cost, fear, and emotion.

Who's Investment Policy Is It Anyway?

- How To View Policy In Transition -

Our typical client manages their own money, often with the aid of a broker. Dad, as the patriarch, is often the family investment manager and Mom may or may not wish to succeed him in managing the family wealth. What happens when Dad and Mom can't or don't want to any longer? Typically, a transition occurs with new eyes viewing the current investment policy. Dad typically incurred investment risks that he was happy with, and achieved a given level of gains. Often wealth is built with concentrated positions, whether through a family business or as an executive in a public company. Whether Dad's performance was superior to others is relative, but of no matter because the achieved wealth is their's. But, now what?

New eyes will assess the current investment policy. Every portfolio has an implicit investment policy, whether stated or in fact. When viewed it will present its own characteristics, with allocations between asset classes, sectors, and weightings understood. It will have its own risk metrics, including sharpe ratios, standard deviations, correlations, tracking error, alphas, and betas. When a third party steps in with a view as a fiduciary (who holds a duty of care and loyalty), the purpose of the portfolio will be determined. Is the purpose to satisfy assistance with living and health care, the needs of children or grandchildren, a combination, or some other? Typically a budget is established for purposes of satisfying living expenses and other needs and time frames will be assessed. If cash is needed at given intervals over and above recurring income, is the portfolio suitable to generate the cash without risk that assets may fall in value before being sold to meet the need? Can assets be sold without material capital gains taxes that dissipates principal, on which income can be generated? Should assets be sold recognizing that should a death occur that capital gain will be eliminated with a cost basis step-up to market value? If either Mom or Dad is suffering from a terminal illness, should assets be transferred to them to secure the cost basis step-up that occurs at death, rather than being sold?

The above reflects common scenarios and questions we confront with clients and their families, as the family lawyer, on almost a daily basis. In our role we often become the investment committee, helping the family establish an appropriate investment policy and then monitor investment managers and their performance and report it to family members. We also audit the costs being incurred and benchmark performance and cost against investment manager peers. Doing so also assures that all legal, tax, accounting, and financial matters are working in sync and in order to best secure stated objectives. New eyes not only will but should assess investment policy, and the two primary questions are why and when!

Will Amazon, Facebook, and Google be Regulated?

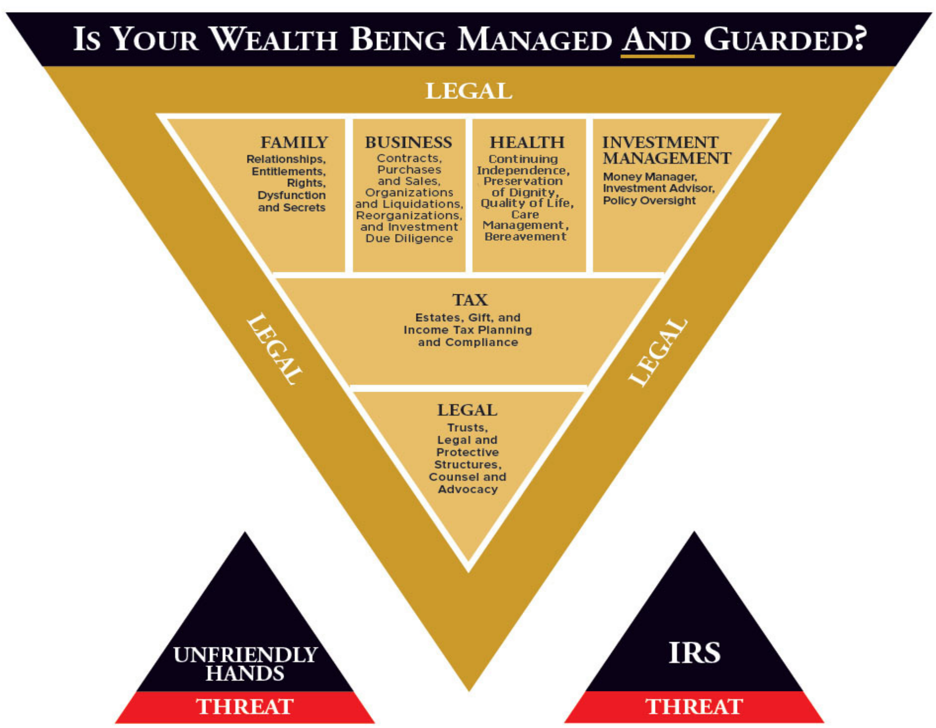
- The Government is Looking -

It is common for us to question money managers on whether they have the same concerns as we do with the skyrocketing performance of Amazon, Facebook, and Google, given their susceptibility to political and regulatory pressure. Afterall, given the S&P market capitalization bias, they alone accounted for in excess of 21% of the S&P's performance during 2017. Facebook and Google are being threatened with regulation as utilities, while Amazon is being investigated as a monopoly in legislative chambers. We also recognize that President Trump isn't a fan of Zuckerberg or Bezos. Some managers maintain their positions, while some never held one. From a legal, regulatory, and political perspective, it seems only a matter of time that some form of regulation will occur. Our concern is not just with these companies as investments, but their impact on index investments, particularly market weighted ones.

Ticker	S&P 500 Weighting /Rank	S&P 500 Weighting Rank	2017 Performance / + - SP 500
Amazon - amzn	2.05%	3rd	55.96 / +34.13
Facebook -fb	1.84%	4th	53.38 / +31.55
Alphabet Class C - goog	1.38%	9th	35.58 / +13.75
Alphabet Class A - googl	1.38%	10th	32.93 / +11.1
S&P 500 TR			21.83

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

- Don't Confuse Investment Management with Wealth Management -



Using Tax Reform To Your Advantage

(continued from page 3)

locking them in prior to change by a new Administration or before 2026 will be the focus of most estate planning. For clients with larger estates, using the exemptions and leveraging them to accomplish more robust wealth transfers will be the focus, by using traditional tools such as family limited partnerships, intrafamily sales, qualified personal residence trusts ("QPRTs"), grantor retained annuity trusts ("GRATs"), and others. At a base level, most planning will focus on transferring wealth to trusts in such a way that exemptions are locked-in, while access and control remain available, and securing a cost-basis step-up.

Existing estate plans should be reviewed for the effect of the increase in the exemptions. For example, many estate plans use the exemption of a deceased spouse to create an exempt trust, commonly referred to as a family or credit shelter trust. Some plans transfer this share to children or others. With the rise in the exemption, this type of formula or plan could inadvertently transfer needed resources away from a surviving spouse or otherwise impose unintended restrictions. Others should focus on avoiding the transfer of capital gain to heirs.

Process: Estate plans should be reviewed for the impact of the TCJ Act and what opportunities to utilize the increased exemptions exist in a client's particular circumstances. Three tax exemptions have been increased to the $11.18 million level- estate, gift, and generation skipping. While alive, only two really matter- the gift and generation skipping exemptions. What is not used during life will automatically be applied at death, unless altered before then by legislation. These exemptions should be preserved before they potentially expire, and preservation can best be achieved through a number of opportunities that commonly exist. Thus, the process is a simple review of existing estate plans and related legal documents, projection of one's estate tax exposure, and implementation of the opportunities presented. Simultaneously, avoiding the transfer of capital gains to heirs should be considered.

Income Tax

Individual rates remain subject to seven progressive rates starting with 10% and topping out at 37% on amounts over $500,000 ($600,000 for married joint filers). An approximate rate reduction of 3% occurred across most thresholds, while thresholds for increased rates also have risen effectively reducing the rate of tax at the margin for most individuals. However, the 3.8% net investment income surtax that applies to capital gains, portfolio investments, and passive types of income from moderate and upper income earners remains. The personal exemption and many itemized deductions have been eliminated or are phased-out. The most significant phased-out deductions are the interest deduction on new mortgages in excess of $750,000 and the deduction for state level income and property taxes exceeding $10,000. The deductibility of interest on home equity loans is no longer available, even if used for home improvements. Personal investment expenses are also eliminated. But, the medical expense deduction has been liberalized and expenses are now deductible to the extent medical expenses exceed 7.5% of AGI for 2018 and 2019, after which it reverts to 10% as exists under prior law. The thresholds for application of the alternative minimum tax and the phaseout of those exempt levels has also been increased. The net result is that most taxpayers, except those with large interest and state tax expenses, will see a tax reduction in 2018 through 2025. Taxpayers resident in New York, California, Connecticut and other high tax states may see higher taxes, and those that do may become motivated to seek a change of tax residence and domicile. The lost state income tax deduction will not affect taxpayers otherwise subject to the alternative minimum tax.

One of the unique aspects of the TCJ Act, which has largely been ignored, is the significant reduction in the marriage penalty. The marriage penalty refers to the fact that the joint brackets are not double the single brackets. Under prior law, a married couple with taxable income of $100,000 would face higher rates than two single taxpayers making $50,000 each. Under the TCJ Act, a married couple does not experience a marriage penalty if their joint taxable income is less than $600,000. All joint brackets, except the 37% bracket, are double the single brackets. This benefit dissipates with those having taxable income above $600,000 and is exacerbated by the loss of itemized deductions, particularly for those living in high tax states where an actual tax increase could be experienced. Again, taxpayers resident in New York, California, Connecticut, and other high tax states will be encouraged to seek a change of tax residence and domicile.

Process: In essence, a review of income sources and sources of expenses should be undertaken. As will be seen further

See Using Tax Reform on page 10

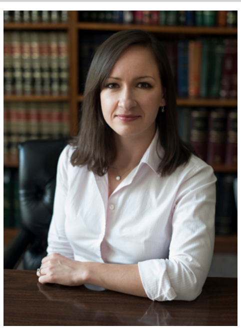
Multi-Generational Representation - Valuable and Appreciated -

The vast majority of our clients come to us either by word of mouth or referral from existing clients. The highest compliment we receive is referral from a client.

Increasingly, clients are asking us to represent their children and grandchildren. We are both honored and gratified with such a request. Many estate plans we develop involve favorable Florida laws and can benefit junior family members regardless of geographic location. Consequently, we are often involved with dovetailing estate plans of junior family members living up North, with the estate plans of senior family members domiciled in Florida. We are also sometimes asked to serve as administrative trustee, in order to avoid northern state income taxes.

This continuity of representation can be particularly helpful to younger generations when anticipating family transition as a result of incapacity or death of seniors. However, we understand that the next generation must exercise their own due diligence in seeking counsel. We would be happy to discuss this type of representation on a courtesy basis, and provide examples of past representations and accomplishments that may be relevant to your family's circumstances.

References are also available from those in other states.



Sonya Mochegova, J.D.
Senior Paralegal
B.S. U of M Amherst, Honors
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Estate Planning
Real Estate
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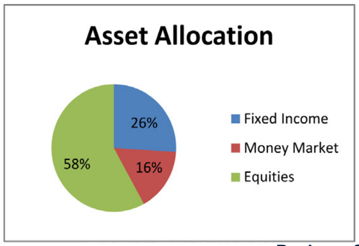
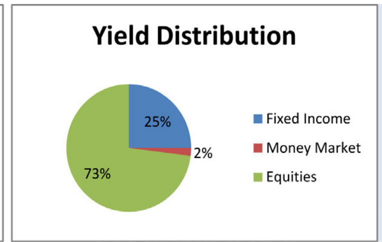
Confidentiality in Tax Planning and Compliance
- Heightened Through a Law Firm -

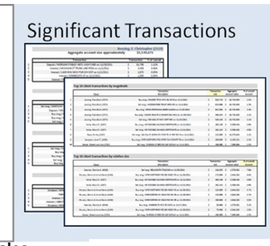
Client confidence and protection of their information is subject to varying levels of strictness, often by law. Tax planning conversations, concerning why something is done one way or another, may only be privileged when that tax planning is done within the confines of communication with one's lawyer and not when it is conveyed to others, including a CPA or financial firm. There can be many justifications for steps taken when planning, and adversaries can twist motive. The privilege of communications with ones lawyer has the highest level of confidence which is prohibited from being shared with others, even if requested by the IRS. This privilege extends to CPAs and others who are members of the law firms professional service team. It also extends to appraisers involved with assessing values when planning, and why we, rather than a client, often hire outside advisors and appraisers when needed. If our client hires the appraiser rather than us, any conversations on motive behind decisions and information supporting a higher or lower value will be discoverable because it is not privileged communications with one's lawyer.

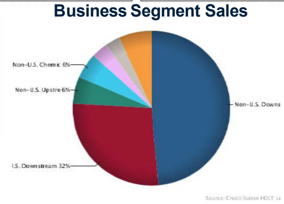
John L. Avery Jr., Esquire
Trial and Litigation Attorney
Appellate Law
Real Estate and Business Litigation

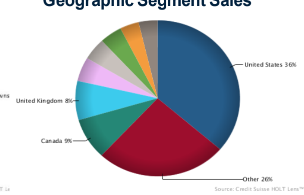
Wealth Monitoring Services
- Our Proprietary Monthly Client Snapshot -

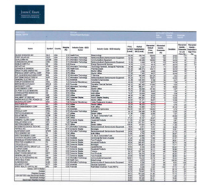












KEMPE
Law | Estates | Tax | Wealth

Client Snapshot

Client Name:	John and Jane Sample
Client #:	999.281
Date:	12/20/2017
Reporting Period:	Nov 2017
Legal Assistant:	Tracy Costanzo
CPA:	Kyle Donham
Advent Analyst:	Maureen L. Rigaudon
Lawyer:	Joseph C. Kempe

CURRENT

Total Family Wealth:	$29,579,000
Tax Exempt Trusts & Entities	18,195,000
Husband's Estate Size:	7,015,000
Wife Estate Size:	2,241,000
Joint Estate Size:	2,128,000
Current Estate Tax:	2,205,000
Percent of Current Estate:	7%
*Projected Gross Estate:	35,319,000
*Projected Estate Tax:	2,128,000
Percent of Projected Estate:	6%
Estate Tax Bracket:	40%
IRA Portfolio:	1,933,000
*Total Family Partnership	11,245,000

•Based upon a 3% return, net of expenses over life expectancy and no valuation discounts.
•The current Estate Tax estimate assumes a $5,490,000 exemption and 40% tax through 2017 and indexed for inflation in later years. We are assuming an inflation rate of 2.5%.

YTD Investment Performance

Portfolio:	**22.47%**
S&P 500:	20.49%
Barclays Agg:	3.07%

Performance Since 2011

Portfolio:	**10.05%**
S&P 500:	15.85%
Barclays Agg:	2.41%

Current Year Realized Gains and Estimated Tax Status

2017 Gains/(Losses):	$1,961,106
Protected Tax Status:	**Yes**

(Performance and Realized Gains are through Nov 30, 2017 on monitored investment accounts. The IRR for periods over a year are annualized as per GIPS recommendation.)

Income for the Period Ending 2016

Total Income:	$354,227
Tax Free Income:	198,880
Adjusted Gross Income:	155,347
Taxable Income:	28,145
Marginal Tax Bracket:	0%

Gift & GST Exemption Used

Husband Gift:	$221,481
Wife Gift:	4,888,468
Husband GST:	560,908
Wife GST:	4,983,802

Estate Planning Developments

Reviewed & Current	**YES**	**NO**
Will:	X	
Trust:	X	
DPOA:	X	
HCP (as of 06/01/17):		X
Living Will:	X	
IRA Integration:	X	
Recommendations:	Value Shifts/ Update HCP	
Document Code:	Singe 80/20	

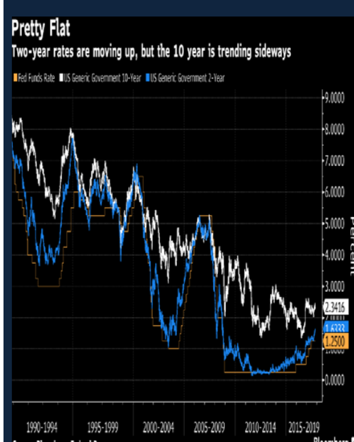
Miscellaneous

QPRT Termination Dates:	**Life Estate**	
Crummey notices verified:	**Yes**	
Family Partnership Records Current?	**Yes**	
RBD Date: H/W	**09/94**	**N/A**
RBD Compliance:	**Yes**	**N/A**
RMD Compliance:	**N/A - Roth**	

Legal Developments

The House-Senate Conference Committee finalized an agreement on 12/15 on Tax Reform measures the White House is expected to sign before Christmas. Reform will reduce the income taxes on the vast majority of Americans. It further doubles the estate tax exemption to $10 million (indexed for inflation), essentially keeping up with the stock market's rise since the exemption rose to $5 million in 2011. This increase sunsets in 2025 and planning will continue to involve creating exempt wealth, free of the wealth transfer tax system.

Economic Developments



Observations

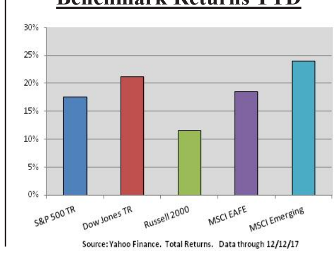
As expected the Fed has raised short term rates 0.25% and four more hikes are anticipated in 2018. Tax reform is anticipated to be a tailwind increasing GDP and inflation, with most confident the yield curve will maintain a healthy relationship. Raising rates too much or too fast can lead to a recession with an inverted curve as a signal, while a steepening curve may indicate the Fed is raising rates too slowly. As of now many feel we are in a "sweet spot!"

Economic Statistics

	Reported	SGS
Consumer inflation	2.20%	9.95%
Unemployment	4.12%	21.70%
GDP	2.33%	-1.75%

Source: BLS, ShadowGovernmentStatistics

Benchmark Returns YTD



Joseph C. Kempe
Professional Association
Attorneys and Counselors at Law

Fiduciary Rule and Financial Abuse of the Elderly - More Activity by the SEC Likely -

The SEC has been shorthanded since the departures of several Commissioners and their chairs have remained empty since President Obama's nominations were stalled in the Senate. This has slowed various activities because of the need for a quorum. President Trump will be nominating new members for confirmation by a friendly Senate, and under Senate rules, these nominations are not subject to filibuster. It is hoped that the SEC, DOL, and FINRA will finally resolve and strengthen fiduciary rules applicable to brokers and investment advisors so that a uniform duty of care and customer loyalty applies.

During 2017 the SEC did announce a new rule aimed at financial exploitation of the elderly. In Regulatory Notice 17-11 the SEC approved: (1) the adoption of new FINRA Rule 2165 (Financial Exploitation of Specified Adults) to permit members to place temporary holds on disbursements of funds or securities from the accounts of specified customers where there is a reasonable belief of financial exploitation of these customers; and (2) amendments to FINRA Rule 4512 (Customer Account Information) to require members to make reasonable efforts to obtain the name of and contact information for a trusted contact person for a customer's account. New Rule 2165 and the amendments to Rule 4512 become effective February 5, 2018.

Chris Bourdeau, CPA
Tax Accountant
Wealth Management
Advent® Analyst

Joseph C. Kempe
Professional Association
Attorneys and Counselors at Law

Using Tax Reform to Your Advantage

(continued from page 8)

below, incurring expenses in different entity structures or realizing income from reconstructed activities may present income reduction and shifting opportunities. It may also encourage the reorganization of holding company type structures, to separate real estate and business activities from portfolio investments. For those not tax residents in Florida, the feasibility of a change in tax residence should be considered. Individuals who previously filed separately because of the marriage penalty should explore filing jointly. Regulations have not been issued by the IRS on most of these changes of law, but opportunities abound. For example, what now may be nondeductible itemized deductions may be susceptible to qualification for deduction in trusts or business entities.

Businesses and Real Estate

A principal goal of the TCJ Act was reduction of the corporate tax rate from 35%, which was one of the highest levels in the World. With some compromise, the TCJ Act passed a 21% corporate tax rate. This makes U.S. corporations a tax shelter, with the highest rate 16% lower than the highest individual tax rate (37%) and lower than the rates in many other countries. Furthermore, corporations are not subject to the 3.8% net investment income surtax – a 19.8% total difference. However, for U.S. corporations with U.S. shareholders, a generally unavoidable double tax is incurred on distributions of profits from corporations- once at the corporate level and then at the shareholder level. As a result of the double tax, most family owned businesses in the U.S. are pass-through entities (S corporations, partnerships, or LLCs) designed to eliminate the double tax consequences of operating business as a regular, often called "C" corporations. The tax on passthrough profits is borne by the owners or shareholders. So as not to eliminate small businesses from the intended encouraging effects of tax reform, the TCJ Act enacted a new statute aimed at providing business owners with a tax benefit through a deduction. Under new Code Section 199A, individuals, trusts, and estates are entitled to deduct 20% of their distributable share of business income from passthrough entities. In essence, this means the highest marginal tax rate on passthrough profits is 29.6%. However, this 20% deduction is subject to limitations, which are discussed further and elsewhere in this Client Update.

In addition to 199A, the TCJ Act increases the threshold of full deductibility of depreciable property purchases and expands the type of "qualified property" subject to the rule. This new rule applies to purchases occurring after September 27, 2017. Cost recovery through depreciation has also been enhanced by shortening depreciation periods and expanding the types of real property and components of real property susceptible to accelerated write-off periods of depreciation. In general, the TCJ Act provides a number of features that encourage investment in real property, whether directly or through various types of entity structures.

See Using Tax Reform on page 12

Planning for the next Tax Reform

(continued from cover)

Therefore, it is important to use them before they expire. Doing so is no different than we customarily advise- make your wealth exempt from the wealth transfer tax system at the earliest point possible.

Using these exemptions can be achieved at various levels. One spouse can make a gift in trust to the other spouse, such that the gifted amount will no longer be included in the estates of either spouse. What's more, with proper planning the gifted amount can remain a resource for both spouses during their lives. For example, Dad can transfer $11.18 million to a trust for Mom (or $5.6 million if he already used his pre-2018 $5.6 million exemption) with Mom receiving as much or little of the income or principal as is needed. Should Mom predecease Dad, with proper planning the trust can continue to benefit Dad. Mom can, subject to compliance with the reciprocal trust doctrine, potentially do the same for Dad. Depending on the level of wealth involved, exemptions can be used to leverage far greater wealth transfers into exempt form, whether for spouses, children, or grandchildren. Furthermore, often existing irrevocable trusts have not been maintained properly and either waste exemptions or are not drafted to protect wealth from unfriendly hands (from divorce, third party liability, the tax system, or other liability risks). Often these trusts can be modified to obtain those protections and once done, it is often important to file gift tax returns to allocate or correct the trusts GST exempt status. It is also important to reconcile "crummey notices." Properly using the GST exemption means that wealth will remain exempt from the wealth transfer tax system for multiple generations.

Sector Performances
as of January 2, 2018

Sector	1Yr	3Yr	5Yr	
Basic Materials	25.63	11.04	11.01	
Communication Services	4.74	10.13	11.56	
Consumer Cyclical	26.02	12.58	16.52	
Consumer Defensive	12.78	8.54	13.19	
Energy	0.22	-0.47	2.36	
Financial Services	22.63	13.91	17.93	
Healthcare	24.26	8.63	17.76	
Industrials	23.2	12.52	16.58	
Real Estate	6.32	4.79	8.52	
Technology	39.3	18.31	19.63	
Utilities	11.68	7.31	12.19	

Source: Morningstar

Charles R.L. White, Esq.
Civil Litigation Attorney
General Practice

Dawn Chadwick, LA
Litigation / Health Care

Joseph C. Kempe
Professional Association
Attorneys and Counselors at Law

We are pleased to announce that
Conner R. Kempe, J.D., LL.M.
has joined the Firm

Mr. Kempe joins us after completion of his post doctorate studies at the University of San Diego School of Law, where he obtained his LL.M. degree in tax law. While there he completed the paper, *Trustee Grant of Power, A Simpler Approach to Modifying GST Exempt Trusts*.

A graduate of Stetson University College of Law and Dartmouth College, with an AB degree in Economics, Mr. Kempe's background and educational experience are diverse. While attending law school, he assisted Professor Robert Levine with his book, *The UCC Made Easy*. He also held internships with the General Counsel's Office of NOAA- The National Oceanic & Atmospheric Administration, where he performed regulatory research, and Skyway Capital Partners, where he assisted with research on laws affecting securities and investment advisors under the '33 and '34 Acts. He held internships with this firm where he participated in numerous estate and business planning projects and performed investment due diligence on a variety of investments opportunities, ranging from a Mel Fisher salvage and exploration investment opportunity to interest rate swaps. Mr. Kempe was admitted to study abroad during law school and attended the Cayman Island Law School, where he studied international banking, the law of the seas, and carriage of goods. He interned with Congressman Thomas J. Rooney (R-FL 17), in Washington, D.C., and was admitted and attended the Tuck Business School at Dartmouth College's total immersion Bridge Program, where he studied global investment banking, finance, management, and marketing. While at Dartmouth, he was a four year starting quarterback, and also studied abroad, where he was admitted and attended the University of Sydney, Australia's, developmental economics program. Mr. Kempe joins our Tax, Estate Planning, and Wealth Management Departments.

Our Tax Compliance and Planning Team

Mike Posten II, CPA
f/w PricewaterhouseCoopers
Tax Accountant and Wealth Management

Nadia Pasicznyk, CPA
f/w Deloitte Tax LLP
Tax Accountant and Wealth Management

Kyle Donham, CPA
f/w PricewaterhouseCoopers
Tax Accountant and Wealth Management

Benjamin Devlen, CPA
f/w WTAS LLC (Arthur Andersen)
Tax Accountant and Wealth Management

Chris Bourdeau, CPA
Tax Accountant and Wealth Management

The Economist on "the Death Tax!"

- Argues for a Purpose -

Only a few decades ago death taxes took a large bite out of the largest fortunes. The top rate of estate tax in the U.S. was 77% and many more were subject to it. In 2017, however, only .02% of taxpayers were liable or exposed to the estate tax. With the increase in exemption under the TCJ Act, fewer than 1,000 estate tax returns will be filed per year. Economists worry, and The Economist has argued in several recent publications, that reducing the "death tax" is just "popular" now around the world. Their fear is that wealth inequality is sneaking up on us. Half of Europe's billionaires inherited their wealth and the flow of inheritances in some rich countries is around 10% of GDP, far above the level a few decades ago. Britain has cut the number of residents subject to its death tax each year by a third. Some countries, like India, Norway, and Australia, have eliminated the death tax all together. The Economist concludes that this is unhealthy and creates greater disparity among rich and poor and an elitist society. It suggests maintaining the estate tax and targeting the wealthy with it, reducing other taxes as a result, and imposing the tax in a simpler manner, reducing the complexities associated with the various means used by the wealthy to avoid it. The problem is, seldom do governments reduce taxes while putting new taxes in place!

RACHEL KITTL, LA
ESTATE ADMINISTRATION
FIDUCIARY SERVICES
WEALTH MANAGEMENT

Using Tax Reform to Your Advantage

(continued from page 10)

New Code Section 199A provides a deduction as a result of income, and cannot therefore create a loss. Historic limitations on the ability to deduct losses from business operations remain, and basis, at-risk, and passive loss limitations remain, and new ones are created. The TCJ Act provides a change to net operating loss ("NOLs") rules. After 2017 and before 2023, NOLs may only offset 80% as opposed to 100% of taxable income under prior law. Furthermore, an individual, trust, or estate may only deduct up to $250,000 ($500,000 for married couples filing jointly) of a current year business loss, with the excess carried forward. Much planning will likely focus on 199A and securing the 20% deduction. This is because there are tiers of limitations and phase outs, if one's taxable income is over $157,500 (or $315,000 if married filing joint). If these thresholds are exceeded, the "deductible amount" is limited to the greater of 50% of W-2 wages or 25% of W-2 wages, plus 2.5% of the original cost of qualified property or a percentage thereof. The amount of the deductible amount that a given taxpayer may use is further limited to (1) the lesser of (a) the taxpayer's qualified business income or (b) 20% of the taxpayer's taxable income less net capital gain, plus (2) the lesser of (a) 20% of qualified income from various types of real estate investments (including REIT dividends) or (b) the taxpayers taxable income reduced by net capital gains for the year.

Process: Evaluating the ability of an individual to benefit from the TCJ Act's business provisions will involve a study of the various current and potential sources of a taxpayer's income and where expenses are incurred. Long term business expansions and growing businesses, where earnings will be retained, may best be organized or reorganized as regular "C" corporation's to gain the advantage of the 21% corporate tax rate. Where cash flow to shareholders is a priority, sheltering the corresponding income flowing from passthroughs will be a priority. Shelter occurs with deductions, and historically deductions involve expenses, whether from actual expenditures or paper cost recovery from depreciation and amortization. Code Section 199A introduces a new and creative type of deduction that is generated from income and not an expense. Generating this type of income essentially means business and real estate income that is qualified is partially tax free, in a sense like a partially tax exempt municipal bond. Planning will involve attempting to have otherwise non-deductible itemized deductions expensed in business entities and reorganizing holding companies and others to take advantage of the deduction associated with qualified income. Furthermore, REITs and other forms of real estate investments should see an increase in demand because their income will be partially exempt as a result of the 199A 20% deduction. In this regard, since the enactment of these provisions, many REITs have seen a significant rise in their market values. ⚖

Musings Under New Code Section 199A

(continued from cover)

accelerated depreciation that promoted the purchase and development of real estate based upon economics that were driven by the present benefit of tax loss tax savings. Proformas generating losses under the laws that then existed illustrated how those losses would offset a taxpayer's other taxable income, thus producing a favorable economic result. This lead to a real estate bubble driven by the purchase of properties that didn't generate positive economics on their own, with some arguing this lead to the S & L crisis from 1986-1995. Uniquely, Code Section 199A permits a deduction of 20% of qualified business "income," encouraging positive economics.

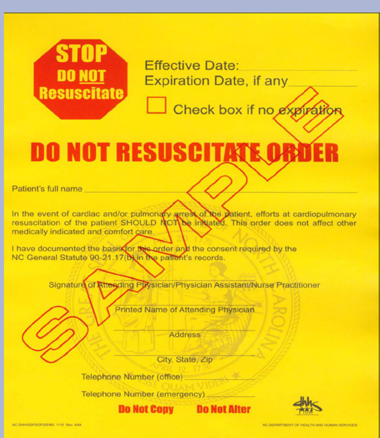
Unlike typical expenses or accelerated write-offs, once an expense or cost is deducted that amount is no longer susceptible to future write-offs and a downward tax basis adjustment occurs. A last minute change to the TCJ Act added a significant philosophical change in tax law aimed at fostering real estate investment, whether passive or otherwise. Under this rule, taxpayers over a given level of taxable income ($157,500 single or $315,000 joint filer) are subject to limitations on their ability to deduct 20% of their qualified business income. In general, if subject to the limitation, the deduction cannot exceed the greater of (1) 50% of the allocable share of the taxpayers share of the business's W-2 wages or (2) 25% of the W-2

See Musings Under New Code Section 199A on page 14

Living Wills are not DNR's
- Confusion Persists -

The New York Times April 2017 article title was, *The Patients Were Saved. That's Why the Families are Suing,* and it describes how Beatrice Weisman went into cardiac arrest and the medical staff at Maryland General Hospital resuscitated her, against her presumed wishes and the wishes of her husband and family. Living Wills are legal documents which express a patient's wishes under certain circumstances. A DNR is a medical order, signed by a doctor. While a Living Will may express a patient's desires not to be resuscitated, emergency medical personnel are only permitted to follow a yellow Florida DNR form issued by a doctor. They are not permitted to follow a Living Will. Patients who do not wish to be resuscitated must have the yellow Florida DNR form available for Emergency rescue workers.

This form is available in our offices as well as many physicians' offices.



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Protecting Yourself From Identity Theft
- More and More Clients Seeking Help -

The news is full of cyber hacking, identity theft, and reported mega-data breaches. In an effort to stay ahead of these problems, we are suggesting to our clients to place a freeze on their credit. Also known as a "security freeze," this method allows you to restrict access to your credit report, thereby making it more difficult for identity thieves to open new accounts in your name. Most creditors need to see your credit report before they approve a new account. If they can't see your file due to a self-imposed freeze, they may not extend the credit or open an account. A credit freeze does not impact your credit score. Applying for a credit freeze can be done by contacting each of the three national credit reporting companies (Equifax, Experian, & TransUnion). You may process this request in one of three ways: online, by telephone, or mailing in the personal information:

Equifax — 1-800-685-1111
www.freeze.equifax.com
Experian — 1 888 397 3742
www.experian.com/freeze/center.html
TransUnion — 1-888-909-8872
www.transunion.com/securityfreeze

Fees vary but are minimal- from $5 to $10 per agency. After receiving your freeze request, each credit reporting company will provide you with a unique PIN (personal identification number). If you froze your credit online, you will receive this PIN online at the time of the freeze. Make sure to write this number down. It is extremely important as you will not be able to lift the freeze through the online method without it. If you choose to freeze your credit through one of the other methods, the agency will send you a confirmation letter containing the unique PIN or password. Again, keep the PIN or password in a safe place. We can vault them for our clients. Regardless of how you placed the freeze, you will need this PIN to lift the freeze. Once implemented, a credit freeze can be lifted prior to opening new accounts, applying for a loan or credit card, or for other financial transactions. Be aware that if you are using any method other than the online one, there may be a delay in the lifting of the freeze. If done online, the freeze can be lifted immediately. Please note that a credit freeze will NOT protect existing accounts – you'll still need to monitor banking and credit card statements for fraudulent transactions. If we are performing bookkeeping services for you, we monitor this for you.

You are also entitled to a free credit report from each of the three reporting agencies once a year. To order, visit http://www.annualcreditreport.com, call 1-877-322-8228. Or, complete the Annual Credit Report Request Form - https://www.consumer.ftc.gov/articles/pdf-0093-annual-report-request-form.pdf and mail it to: Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281. Do not contact the three nationwide credit reporting companies individually. They are providing free annual credit reports only through annualcreditreport.com, 1-877-322-8228 or mailing to Annual Credit Report Request Service. We suggest you stagger these reports by requesting one of the three every four months. If you need help, let us know.

Whitney Houston Estate and IRS Settle
- $2.28 Million Deficiency Agreed Over Valuations -

It is not uncommon for the IRS to disagree with the values asserted on estate tax returns. The value of intangible assets associated with actors, athletes, and entertainers are difficult to assess, without expert appraisers and legal advice. The Estate of Houston v. Comm., illustrates how the use of experts can be used to confront the IRS. In this case, the IRS settled for less than a third of what it claimed Whitney Houston's estate owed on her music, film, and publicity rights. The IRS alleged that the estate had underreported the value of intellectual property rights by $22.6 million in a 2016 deficiency notice and assessed $7.92 million in taxes and $3.17 million in penalties. Upon settlement, the estate and IRS agreed to a $2.28 million deficiency, with no penalties, in a stipulated decision entered by U.S. Tax Court on Dec. 26, 2017. The IRS also erred by increasing royalties from catalog albums by $9.1 million, royalties from a new album by $440,989, and by increasing the value of the following other rights:

- digital performance rights royalties by $1.36 million to $2.79 million;
- motion picture and television residuals by $120,537 to $594,897;
- publicity rights by $11.5 million to $11.7 million; and
- royalties from other sources by $53,066 to $189,028.

The estate also argued that the IRS erred by increasing the value of Houston's name and likeness and merchandising royalties and that the valuation reported on the estate tax return was accurate and used valuations by qualified appraisers with "substantial expertise valuing such assets for the entertainment industry." Estate of Houston v. Commissioner, T.C., No. 12098-16, stipulated decision12/26/17.

2018 Estate and Gift Tax Exemptions
- Highest Ever -

Annual Per Person: $15,000 for present interest gifts of property or by using "crummey notices" for gifts in trust.

Medical and Education: unlimited if paid directly to institution.

Lifetime Gift Tax: $11.18 million to anyone.

Estate and Gift Tax: $11.18 million to anyone less lifetime taxable gifts.

Generation Skipping Tax: $11.18 million to anyone 2 or more generations below or for gifts in trust for multiple generations, including the next.

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Musings Under New Code Section 199A

(continued from page 12)

wages plus 2.5% of the "unadjusted basis" of "qualified property." For joint filers, application of this limitation means approximately a 1% loss for every $1,000 over the threshold and 2% for a single filer. Qualified property includes most depreciable property and whether or not it has been written-off as an expense under Code Section 179 or is depreciated - its original cost is applied. This last minute change provides real estate investors a significant benefit, because the so called "wage limitation" doesn't mean the absence of a deduction if nominal or no wages are paid, provided qualified property exists. Qualified property remains unadjusted for not less than 10 years, even if the asset has been fully depreciated or expensed beforehand.

Additionally, this rule is expanded by permitting it to extend to REITs and publicly traded partnerships investing in real estate, unaffected by the above described limitation. Thus, taxpayers are permitted to deduct (without itemized deduction limitation) not only a portion of their qualified business income, but also 20% of their income from REITs or publicly traded real estate partnerships. In essence, 20% of real estate investment in publicly traded partnerships is now tax free.
Because these measures are aimed at investment that makes economic sense, the production of income is important and the generation of loss is discouraged. This is because a loss from a qualified business will decrease the deduction and any excess will be carried forward to reduce the deduction in future years. Qualified business income is a "net" amount, with income reduced by deductions and losses. As such, in some circumstances certain expenses producing deductions that are elective should not be taken. For example, under Code Section 179, the election to expense capital assets is not mandatory and though generally desirable a study should be undertaken on the impact under Code Section 199A.

With tax planning in general, analysis of a taxpayer's particular circumstances is necessary to produce optimum results. Not much got simpler under the TCJ Act, but opportunities do abound. For most individuals, significant opportunities exist to enhance estate, business, and investment plans. We are presently digesting the TCJ Act and will be writing more as developments unfold.

Recent Trends of Some Market Value Indicators:

Economic Indicator	Previous Period	Current Period	% Change	Previous Year 12/31/16	YTD	Reporting Information
GDP	19250	19500.6	1.30%	18657.3	4.52%	Quarterly
Jobless Claims	261000	220000	-15.71%	237000	-7.17%	Weekly
Housing Starts	1299000	1192000	-8.24%	1268000	-5.99%	Monthly
Unemployment Level	6610	6576	-0.51%	7529	-12.66%	Monthly

Recent Trends of Some Economic Indicators:

Economic Metric	Previous Period	Current Period	% Change	Previous Year 12/31/16	YTD	Reporting Information
TMC/GDP Ratio	131%	137%	4.58%	126%	8.73%	Quarterly
Shiller's CAPE Ratio	32.00	32.47	1.47%	27.84	16.63%	Monthly
10 - 2 Treasury Yield Spread	0.66	0.56	-15.15%	1.30	-56.92%	Monthly
Tobin's Q	1.083	1.086	0.28%	1.032	5.23%	Quarterly

**Current and Previous Period designations vary among data points and are shown here as of the most recent reporting period available for that data point

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Simplifying Code Section 199A - Some Rules to Understand -

1. If you are under the taxable income thresholds ($157,500/$315,000), the deduction is 20% of qualified income.
2. If your taxable income is above the income threshold but under the full limitation phase-in ($207,500/$415,000), a percentage of the limitations reduce the deduction.
3. If over the full limitation phase-in, the limitations are tied to W-2 wages paid and qualified property value. The higher each is the better, as less reduction of the deduction occurs.
4. If over the full limitation phase-in and a disqualified service business, there is no deduction (doctors, lawyers, athletes, and entertainers lose out).
5. For qualifying businesses, the higher the wages a business pays, and greater the investment in depreciable property, the less phaseout of the deduction.
6. Planning will involve ways of increasing W-2 wages but not cost, reducing taxable income, and increasing the unadjusted basis of qualified property.
7. For service businesses, planning will involve segregating business functions so that segments aren't considered disqualified service businesses.
8. None of the above matters to investments in REITS and publicly traded real estate partnerships- 20% of their income is deductible.
9. The deduction may be taken even if the taxpayer does not itemize, but the deduction is limited to not more than 20% of taxable income, which either itemizing or the standard deduction will reduce.

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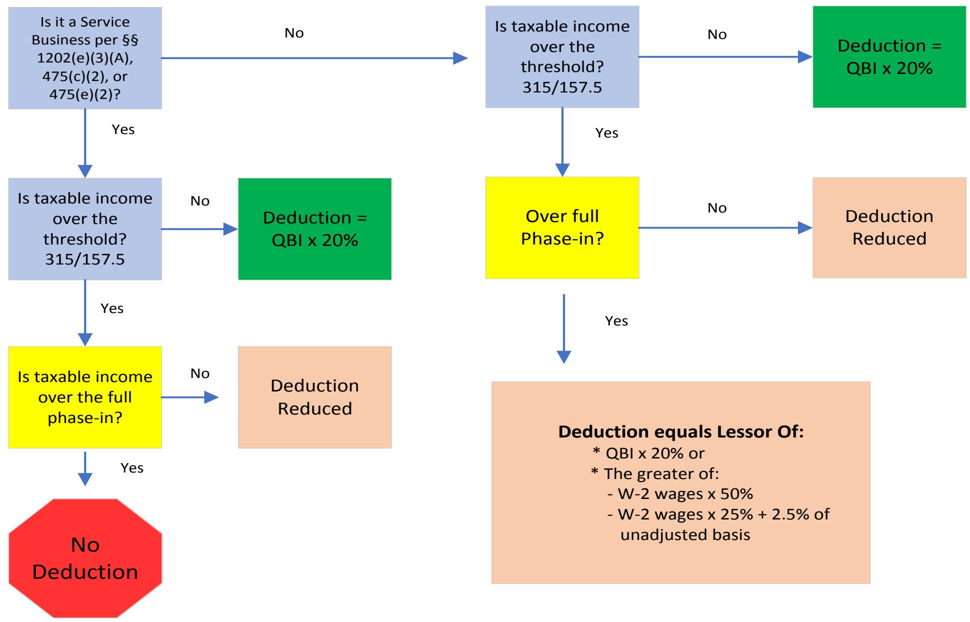
Code Section 199A Flow Chart
- Private Business and Real Estate Investor Guide -



QBI = Qualified Business Income
Full Phase In = $207,500 for Single or $415,000 for Joint Filers
W-2= Salary or Hourly Wages To Employees

Code Section 199A Examples
- Real Estate and Business Investors -

Bob and Jane are married, file a joint return, and have $1 million of taxable income (excluding capital gains). They have a real estate LLC that has an unadjusted cost basis of depreciable improvements of $5 million and the LLC throws off $650,000 of taxable income. The LLC pays no wages and is a passive investment with net, net leases to tenants. Bob and Jane also have invested $100,000 in a public REIT that throws off $10,000 of income. Bob and Jane will receive a deduction of $125,000 for the LLC investment and $2,000 for their REIT investment. Though one might originally think they are entitled to 20% of $650,000 or a $130,000 deduction, the deduction is limited by the so called "wage rule" because their income exceeds $415,000 (joint filer threshold where limitation is completely phased in). Since there are no wages, the limitation is 2.5% of $5 million, or $125,000. Therefore, Bob and Jane's total deduction for 2018 is $127,000 when adding the $2,000 deduction from the REIT investment.

John is single and has taxable income of $150,000 (excluding capital gains). He operates a local hardware store under an S corporation business structure and has no other income. He pays $215,000 in wages and has depreciable tenant improvements with an unadjusted cost of $500,000. John's deduction is 20% of income or $30,000. He has no asset or wage limitation because his taxable income is under the phaseout threshold for a single filer of $157,500 (for a joint filer it is $315,000).

Where a single or joint filer has taxable income between the phaseout threshold ($157,500 single or $315,000 joint filer) and the complete limitation phase in threshold ($207,500 single or $415,000 for joint filer), the limitation is imposed on a proportional basis tied to the level of taxable income.

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Anatomy of a Real Estate Transaction

- How Contacting Our Firm At The Outset Will Save You Thousands -

The focus of this Client Update is transition. Often a major transition is the purchase or sale of a residence. This article's purpose is to educate our clients about how our real estate affiliated group of companies can save them thousands in their next residential transaction while providing them with legal representation at no charge: whether they are selling or purchasing. In the last year, we have had several "trial transactions" implementing what I will describe below: our clients saved a lot (one client saved over $11,000 on her sale), they have received legal representation throughout the entire transaction at no cost, and most importantly they achieved their real estate goals associated with the purchase or sale.

Our firm has two affiliated companies: Counselors Title Company LLC and Counselors Realty LLC. Counselors Title closes real estate transactions and issues title policies and Counselors Realty primarily acts as a referral agent for our clients to local, highly capable realtors that we trust to effectively service our clients' needs.

The typical residential sale transaction usually starts when an owner contacts a realtor who lists their property for sale pursuant to an exclusive listing agreement, markets the property, receives an offer and helps the seller negotiate the contract. In Florida most real estate brokers act as transaction brokers, meaning that the broker may facilitate the transaction by assisting the seller and the buyer, but does not represent either in a fiduciary capacity or as a single agent. If you are not represented by an attorney in a real estate transaction, there is no person in the transaction with a duty to look out exclusively for your interests. We have seen many transactions where the client was not well served under the terms of the contract because their realtor was focused on the transaction, not the client's best interests.

Often a realtor will encourage their clients to use a title company for their closing in which the realtor or their agency has a financial interest. Typically, these are non-attorney owned title companies depriving a client the opportunity for cost effective legal representation.

We should be your first contact when you want to purchase or sell property. Here is why: First, you want Counselors Realty to refer you to the realtor of your choice or one of the several trusted real estate professionals with whom we have worked for years. The reason is that the agency to whom you are referred will pay Counselors Realty a referral fee of 25% of their side of the commission, which Counselors Title will credit to you minus a small amount to cover our expenses. For example, if your home sells for $1,000,000 and you pay the listing agent 6%, the selling side is 3% or $30,000. The referral fee will be $7500, of which Counselors Realty will retain $1,000 and $6,500 will be credited to you at closing. The larger the transaction, the larger the benefit to you.

Typically the seller will pay for the owner's title policy and you would use Counselors Title to close the transaction and issue the owner's title policy for which Counselors Title would earn a premium. As a benefit of using Counselors Title, Counselors Title will cover all legal expenses in the transaction owed to our affiliated law firm. Therefore, you will receive legal representation at no charge. We will assist you in negotiation of the listing agreement, negotiating the purchase and sale agreement, and with any issues that arise up to and including the closing.
In a purchase transaction where you are not paying for title, the referral fee will be used to pay for your legal representation, which would typically range from between $750 to $1,000 depending on the time involved. So in our example, the amount remitted to you would be approximately $5,500.

In summary, if we are your initial contact in a real estate transaction, you will receive highly capable real estate professional services, an experienced real estate attorney's representation at no cost to you, and pay a reduced commission if you are selling or will get money back if you are purchasing. If you have any questions as to how this works, call us.

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