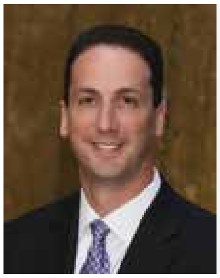
Philadelphia Estate Planning Council

VOL. XXII, NO. 3 SPRING 2013



President's Message

Mark R. Eskin

"How did it get so late so soon? It's night before it's afternoon. December is here before it's June. My goodness how the time has flewn. How did it get so late so soon?"

Dr. Seuss

Wow, that was fast! Almost a full year has passed since I became President of the Philadelphia Estate Planning Council, and in just a few days at our Annual Meeting, my successor will be chosen. As my term winds down, I will confess that I felt a bit like a runner in a "middle" leg of a relay race. My goal was to grab the baton from those who expertly guided the organization for the past seventy two years, run as fast as I could to continue to build on our lead, and then ensure a seemingly effortless transition to those who are about to run the next laps.

I'll leave it to the membership to decide how well the race has been run, but I know that our team has much to be proud of as we enter the 2013-2014 program year, including the following:

- The PEPC is back up to more than 825 members, after a decline that coincided with the country's recent financial crisis.
- Our financial position has never been stronger, with a balanced budget and a cash reserve that stands at record highs for our organization.
- We successfully launched a totally redesigned PEPC website thanks to the "vision" of prior PEPC leaders and the hard work of our Technology Committee. The new site improves functionality, offers significantly better advertising opportunities, works seamlessly on mobile platforms and is generally easier for users to navigate. We also ventured into the realm of social media for the first time with our new PEPC LinkedIn page.

continued on page 3

The Fallacy of Municipal Bonds

Thomas J. Raymond, Jr., CFA

Municipal bonds represent the nexus of taxes, public policy, and investments. On one hand, they serve as a contractual financing mechanism for cities, school districts, and universities, providing capital for their respective operating needs. They also function as an investment vehicle that can limit an individual's tax burden, as section 103 of the Internal Revenue Code (IRC) generally exempts the interest component from federal taxation. Yet, these generalities may do a disservice to investors and issuers alike. Municipal bonds are complex creatures. The ambiguous nature of municipal bonds largely stems from a web of taxation and legislation that should command greater attention.

A false pretense exists with municipal bonds which the legislative history refutes. Municipals have deceptively earned the label of "tax-free bonds" even though *South Carolina v. Baker* removed any constitutional impediments to taxing municipal income. This 1988 Supreme Court case overturned the 1895 ruling in *Pollock v. Farmers Loan & Trust Co.,* which exempted municipal interest. While the federal government has largely steered clear of taxing municipal interest, no legislative barriers prevent change. Further, there

continued on page 3

IN THIS ISSUE:

PEPC Officers and Directors 2012 - 2013

Officers

President:
Mark R. Eskin meskin@janney.com
Stedmark Partners at Janney Montgomery Scott LLC, 215-665-6394

Vice President:
Kathleen S. Kinne Kathleen.kinne@gs.com
Goldman Sachs Trust Company N.A., 302-778-5412

Treasurer:
Rebecca Rosenberger Smolen, Esq. Rebecca@Balalaw.com
Bala Law Group, 610-624-3391

Secretary:
Douglas S. Simon, M.D. douglas.s.simon@DB.com
Deutsche Bank Alex Brown, 215-854-1550

Immediate Past President:
Alan Mittelman, Esq. amitt@lawsgr.com
Spector Gaden & Rosen P.C., 215-241-8912

Directors

Term Expiring in 2013:
Samuel T. Freeman, III, Freeman's, 267-414-1222
Rise Newman, Law Offices of Rise P. Newman, LLC, 215-670-0055
Jay Perlman, owR Opinion, 201-857-1243
Michael S. Schiff, J.D., Glenmede Trust Company, N.A., 609-430-3112

Term Expiring in 2014:
Deborah L. Chiumento, Lau Associates, 302-792-5955 x302
Mary LeFever, Hub International, 484-344-4608
John McCabe, First Republic Trust Company of Delaware LLC, 302-777-2792
Richard Schwartz, Pepper Hamilton LLP, 215-981-4457

Term Expiring in 2015:
John T. Boxer, Morgan Lewis & Bockius, LLP, 215-963-5144
J. R. Burke, CLU, ChFC, CFP, Perspective Financial Group LLC, 610-854-0035
Peggy Robus, CPA, MT, BDO USA, LLP, 215-940-7858
Walter H. Van Buren, CBIZ Wealth Management, 610-862-2290

Term Expiring in 2016
Andrew J. Haas, Esq., Blank Rome LLP, 215-569-5479
Huldah A. Robertson, CFP®, Glenmede Trust Company, N.A., 215-419-6976
Adam T. Sherman, Firstrust Financial Resources, LLC, 215-640-3820
Nina B. Stryker, Esq., Obermayer Rebmann Maxwell & Hippel LLP, 215-665-3057

Newsletter Co-Editors:

David J. Bloom, J.D., CFP® 215-585-1260
Hawthorn, PNC Family Wealth, david.bloom@hawthorn.pnc.com
Andrew J. Haas, Esq., 215-569-5479
Blank Rome LLP, Haas-A@BlankRome.com

2013 Annual PEPC Golf and Tennis Outing

Monday, June 3

Golf Registration:	10:30 a.m. – 12:00 p.m.
Lunch Buffet:	11:15 a.m. – 12:30 p.m.
Golf Tee Time:	12:30 p.m.
Tennis Grass Court Clinic & Round Robin:	2:30 – 4:30 p.m.
Roundtable Program:	4:00 – 5:30 p.m.
Reception: Cocktails & Hors D'oeuvres:	6:00 p.m.
Dinner:	7:00 p.m.

GOLF, LUNCH and DINNER

St. David's Golf Club
845 Radnor Street Road
Wayne, PA 19087-2716

TENNIS

Merion Cricket Club
325 Montgomery Avenue
Haverford, PA 19041

For information contact the PEPC Office at 856-234-0330 or staff@philaepc.org

President's Message continued

- Our Board and Sponsorship Committee developed a far more comprehensive and "common sense" approach to PEPC sponsorship and advertising, and for the first time welcomed three "Platinum Sponsors" - Pennsylvania Trust, Freeman's Auctioneers, and Glenmede. Those organizations dug particularly deep into their corporate coffers to support everything we do as an organization all year long, and set the standard for all of our other sponsors to follow.
- In recent months we've had the very pleasant problem of selling out numerous events, including a monthly program at Union League, a Roundtable presentation, an Ethics Forum and our ever-popular golf and tennis outing.
- The "crown jewel" of the program year will almost certainly be our upcoming Annual Meeting at the new Barnes Foundation on the Benjamin Franklin Parkway on May 9th. More than twenty sponsors are contributing in a very significant way to help offset the substantial cost involved. We fully expect that the spectacular venue, and the draw of two terrific speakers, will re-energize an event that for many years has been the PEPC's "signature" program.

As proud as I am of these and so many other accomplishments, none of them would have been possible without the hard work and dedication of so many people. Our Board of Directors, committee chairs, committee members, and administrative staff (Denise Downing and her team) work tirelessly behind the scenes to make all of these good things happen, and for their efforts I am deeply grateful.

Finally, I could not be more excited about the "runners" to whom I am about to pass the baton. The Executive Officers of the PEPC who will rise through the Chairs over the coming years are an unbelievably dedicated, talented and passionate bunch. With the continued help and support of our Board, committees and general membership, they will continue to deliver fresh ideas (stay tuned for an announcement about our new "Drop-In" happy hours…), terrific substantive programming, and highly enjoyable professional networking opportunities.

After nearly fifteen years of PEPC involvement, this past year has been a remarkable experience for me, both professionally and personally. Thank you again for allowing me to play a small role in the continued success of such a terrific organization. Best wishes to everyone for a professionally rewarding, relaxing and enjoyable summer.

Municipal Bonds continued

may be a greater willingness to tax municipal interest as the federal government finances are in a dire state with close to $16 trillion in debt outstanding. As the fifth largest itemized deduction/credit, the exemption poses a ripe opportunity for the federal government to examine to raise revenues[1].

Speculation may occur regarding taxing municipal bonds, but they did enter 2013 with added appeal as their coupon escaped the clutches of the newly enacted 3.8 percent Medicare tax on unearned income above certain adjustable gross income (AGI) thresholds. Counter-intuitively, high income earners do not have a monopoly on municipal bond ownership, even though they would derive the largest tax advantage. Only 58 percent of municipal bond holders have an income greater than $200,000[2]. Therefore, to maintain progressivity, taxation on municipal interest would have to be targeted. Yet, a focused tax on municipals would likely bring unintended consequences rattling the entire market, beyond inflicting a higher tax burden on the affluent. The value of outstanding municipals could fall upwards of $200 billion as interest rates rise to adjust for their reduced after-tax appeal[3]. This diminution in value could prove temporary, but would exact some degree of pain on all municipal holders irrespective of income levels.

Despite being heralded as a tax-advantaged investment, municipals are a more significant public policy mechanism. Typically, municipals carry a lower coupon than corporate or sovereign bonds of comparable maturity and credit quality. As such, they serve as a cheaper financing tool for issuers. The Congressional Budget Office estimates that 80 percent of benefit of income tax exclusion and corresponding reduced financing cost flows through to the issuer[4]. The importance should not be understated as state and local governments employ 19.6 million people[5]. The public policy benefit appears to be of greater significance than the incremental tax advantage that accrues to the bond holders.

Municipalities will continue to have a borrowing need even if taxation on interest is enacted. If that occurred, financial plans would be recalibrated in recognition of increased borrowing costs. Higher interest rates could create unforeseen

continued on page 4

1 IRS Statistics and JP Morgan
2 Obama's Job Bill Would Hit Munis, Barron's, September 13th, 2011 & IRS Tax Statistics
3 Tax Breaks on Muni Bonds Draw Scrutiny, Wall Street Journal, December 11th, 2012
4 Municipal-Bond Interest Exclusion, Wall Street Journal, December 23rd, 2012
5 Census Bureau - Annual Survey of Public Employment and Payroll Summary Report: 2010

Municipal Bonds continued

outcomes, such as reduced public sector employment, as more outlays are devoted to debt service. Importantly, nearly three-quarters of all infrastructure investments made in the United States, which typically create jobs, are financed by municipal bonds[6]. Our elected officials should examine all potential outcomes before proceeding with increased taxation of municipal bonds.

A. State Taxation

The municipal bond universe is decidedly eclectic with approximately 50,000 issuers[7]. Accordingly, the taxation at state and local levels is quite varied. Generally speaking, municipal interest is exempt from state and local level taxation, but only if the bond holder has primary residence in the respective area of the issuer. For example, a Pennsylvania resident may not be assessed state, local, or federal taxes on a Pennsylvania municipal. However, he would be assessed state and local taxes on a municipal bond from New York. The constitutionality of this tax scheme has been challenged. In 2008, the Supreme Court in *Department of Revenue of Kentucky v. Davis* upheld that the taxation of out-of-state bonds, but not in-state bonds, does not violate the Interstate Commerce Clause. Consequently, many residents of high tax states, such as California or New York, will continue to have a higher embedded hurdle rate to invest in out-of-state issues.

State Taxation of Municipal Bonds for Individuals

State	Tax Assessed on State's Own Bonds	Tax Assessed on Other State's Bonds
Alaska	No	No
District of Columbia	No	No
Florida	No	No
Illinois	Yes	Yes
Indiana	No	No
Iowa	Yes	Yes
Nevada	No	No
Oklahoma	Yes	Yes
South Dakota	No	No
Texas	No	No
Utah	Yes	Yes
Washington	No	No
Wisconsin	Yes	Yes
Wyoming	No	No

Source - FMS Bonds, 2009

6 House of Representatives Resolution 112, March 13th, 2013

7 Top 10 Differences Between Municipal Bonds and Corporate Bonds, Fitch, February 1, 2010

Oversimplification would not be advisable when considering local and state taxation of the municipal landscape. In fact, there are several states that do not tax their residents on ownership of out-of-state bonds. At the same time, there are some states that do tax their residents on their respective issuance. Yet, many of these latter states do exempt certain municipal issuance. Utah is an interesting case as it exhibits a protectionist approach. It only taxes income earned on a municipal bond issued by another state if such other state imposes a tax on Utah issuance. Without a close examination of the state specific particularities of the municipal landscape an investor could be subject to sub-optimal results.

B. Relationship between Yields and Taxation

The relationship between yield and tax rates is inexact. For instance, with the current highest marginal federal tax bracket at 39.6 percent, one would intuitively think that the yield of a municipal bond would be 60.4 percent of a taxable issue, such as a US Treasury bond, of comparable maturity. This relationship tends not to exist. There will surely be some bond issues in the over $3 trillion municipal universe that at a given point exhibit this yield harmony, but that situation is very much an exception.

Prior to 2008, municipals had a mean yield of 76 percent and 88 percent to comparable Treasuries for five and thirty year maturities, respectively[8]. There appeared a natural arbitrage opportunity, particularly for longer maturity issues that traded closer to Treasuries as a result of an embedded risk premium due to future tax policy uncertainty. This relationship broke down in 2008 as the financial crisis engulfed the economy and fear was ubiquitous. To help resuscitate the economy, the Federal Reserve embarked on an unconventional quantitative easing program that purchased Treasuries to drive down yields and corresponding borrowing costs. Concurrently, investors fled to Treasuries due to their perceived safety. The Municipal/Treasury ratio has resided above 100 percent in large part since and even temporarily exceeded 200 percent for certain maturities during the heights of the financial crisis. This yield disharmony illustrates that multiple factors impact municipal pricing, not just taxes alone.

C. Build America Bonds and Private Activity Bonds

Precedent already exists for taxable municipal bonds. In an effort to stimulate the domestic economy, the 2009 The American Reinvestment and Recovery Act created section 1531, launching the Build America Bond (BAB) program.

8 Source – Ned Davis Research

The intent of the BAB's program was to lower the cost of borrowing for state and local governments paving the way for large scale, job creating projects, including infrastructure initiatives. The federal government directly subsidized 35 percent of the borrowing cost, which effectively made a component of the coupon a Treasury bond. Therefore, part of the yield for BAB's was taxable at the federal level and the coupon increased commensurately. This enticed a new ownership constituency, such as foreign buyers, which had largely avoided municipal bonds as they derived no tax benefit.

The BAB's program expired at the end of 2010, but it impacted the municipal market in several ways. The reduced borrowing costs helped save billions at a time when municipal balance sheets were in a precarious state as a result of the recession. For instance, the state of California, which issued about $14 billion of BAB's, reportedly saved in excess of $1 billion in borrowing costs[9]. Also, because the BAB program was temporary, municipalities expedited bond issuance knowing that their future financing costs could escalate. Consequently, BAB's issuance in 2010 was almost twice that of 2009. This had the effect of cannibalizing future supply as overall issuance in 2011 fell by close to $145 billion. Wary of the impact of excess supply on bond prices, investors retreated and the municipal market experienced negative monthly fund flows from November 2010 to May 2011. The combination of diminishing investor demand and escalating supply led to a -1.8 percent return for the Barclays Municipal Index (1-10 Year Maturity) in the last two months of 2010. Municipal pricing cannot escape the fundamental force that if demand cannot absorb new supply, pricing will be affected adversely.

Private activity bonds are akin to BAB's in that they are a breed of taxable municipal bonds. To maintain a limited tax-exempt status, the bond proceeds must be used for a qualified purpose as defined in sections 142 through 145, and 1394[10]. They are often used as a financing tool for larger projects undertaken by a private group, such as high-speed rail facilities and airports. Yet, the boundaries for application of the bond proceeds are quite broad as issuance for student loans, mortgages, and farm property may achieve qualified status.

The benefit of these bonds has the ability to directly accrue to a private constituency, more so than the general public[11]. Generally, private activity bonds meet the following thresholds:

a) More than 10% of proceeds for private business use and

b) More than 10% of principal or interest payment is secured by property interest for private business use or derived from payments for property for private business use.

Also, a bond may be classified as private activity bond if 5 percent or $5 million (whichever is less) of proceeds is used to originate or finance loans to a non-government entity. Thus, these bonds may resemble a corporate issue. To rein in potential abuses, section 146 stipulates a volume cap for certain types of private activity bonds, such as high speed rail facilities. Another defining feature is that, irrespective of the end use of the proceeds, private activity bonds are subject to the federal Alternative Minimum Tax. Consequently, the interest rate for private activity bonds typically carry a higher rate due to their less attractive tax attributes.

continued on page 6

9 Another Blow to State Budgets: Build America Bonds End, CNN Money, December 22, 2010

10 IRS Publication 4078 (Rev. 9-2005) - Tax-Exempt Private Activity Bonds IRS Compliance Guide

11 IRS Publication 550 (Cat. No. 15093R)

Municipal Bonds continued

D. De Minimis Rule

Bond prices do fluctuate and realized gains from municipal bond ownership do not escape taxation as it falls under the reach of section 1222. Also, municipal bonds are subject to the de minimis rule, which does not get much discussion given the general elevated state of bond prices (low yields). Ordinary income rates are assessed to the bond appreciation if purchased at a discount to face value in excess of 0.25 percent per year between the time of acquisition and maturity. Alternatively, if the appreciation is less than the formulaic threshold, capital gains rates will apply. Bond buyers will want to carefully consider bonds trading close to the de minimis threshold level to maximize their after-tax results.

E. Concluding Remarks

A fallacy exists and continues to perpetuate that municipals are "tax-free." This fiction exists in large measure due to the maze of information, which lends itself to oversimplification. However, complexity creates opportunities for the well-versed and disciplined. For instance, taxes should not be the primary driver of municipal pricing, but short term pricing dislocations may surface. Price dislocations tend to be short lived, particularly ones created by emotions and hearsay. Emotion laden transactions seem to be common for the municipal market as misinformation is in surplus and this opens the window for patient investors to capitalize. Further, a better understanding of the municipal market can limit potential mistakes that might elevate an individual's tax burden or help issuers more effectively manage their liabilities. A premium should be placed on municipal market information.

Thomas J. Raymond, Jr., CFA, is a vice president for Abbot Downing, the multi-family office for Wells Fargo. Tom has over ten years of experience in the investment field and is a voting member for the Abbot Downing Asset Allocation Committee.

THANKS TO OUR 2012-2013 LUNCHEON SPONSORS:

September 24	–	Wells Fargo Private Bank and Abbott Downing
October 23	–	Value Management, Inc.
November 27	–	Hawthorn, PNC Family Wealth
January 22	–	Drinker Biddle & Reath, LLP
February 19	–	Wilmington Trust Company
March 19 (Breakfast)	–	Offit Kurman

Estate Planning After ATRA: A Summary of the Heckerling Institute on Estate Planning

Martyn S. Babitz, J.D.

The American Taxpayer Relief Act of 2012 (ATRA),[1] the compromise engineered in Washington on January 1, 2013, to help alleviate the fiscal cliff, has created a new environment for estate planning. The changes wrought by ATRA were at the forefront of the 47th Annual Heckerling Institute on Estate Planning, a week-long conference for estate planning advisors.[2] This article summarizes the author's impressions from the topics discussed at that conference.

Key Drivers After ATRA

The Heckerling Institute speakers stressed four central points about ATRA:

Sense of Permanence in Federal Transfer Tax

For the first time in 12 years, there appears to be some sense of permanence in the federal transfer tax (estate tax, gift tax, and generation skipping transfer tax) laws. Under ATRA, until and unless Congress acts, a permanent $5 million exemption indexed for inflation for each of the federal transfer taxes is in place. That exemption is $5.25 million for 2013.

Portability, that is, the ability of a surviving spouse to utilize the unused portion of a deceased spouse's gift tax and estate tax exemption (but not the generation skipping transfer tax exemption), has been made permanent as well.

Role of Income Tax Planning

Income tax planning will likely become more important in estate planning. This is due in large part to the higher statutory top income tax rate of 39.6% and 20% long-term capital gain rate for individuals with incomes over $400,000 ($450,000 for joint filers). These rates also apply to trusts with incomes that exceed $11,950 annually. Further, a 3.8% Medicare tax now applies to most investment income if an individual's income exceeds $200,000 ($250,000 for married individuals filing jointly).

Thus, even for affluent individuals and families subject to the

1 American Taxpayer Relief Act of 2012 (P.L. 112-240).

2 The 47th Annual Heckerling Institute on Estate Planning was held on January 14-18, 2013, in Miami, Florida. Detailed information on sessions and speakers can be found at http://www.law.miami.edu/heckerling/

highest transfer tax and income tax rates, gifting appreciated assets to reduce the taxable estate may not always be advisable because of the loss in stepped-up basis otherwise available for assets owned at death (and corresponding elimination of capital gains tax on the appreciation of the assets during the lifetime of the owner). This is not a new result, but the increase in the effective capital gains rate and the potential Medicare surtax under ATRA mean that the result could be worse than before.

Portability as a Planning Consideration

Portability will likely be an important planning consideration going forward. The applicable exclusion amount against the federal gift and estate tax now equals the sum of two numbers: the donor's basic exclusion amount ($5 million, indexed for inflation) plus a deceased spousal unused exclusion (DSUE) amount.

The DSUE amount is also available for lifetime gifts. Such gifts will reduce the DSUE amount first rather than the surviving spouse's basic exemption amount. Further, to elect portability, one must file a timely Estate Tax return.

The DSUE amount is calculated based on the amount of the exemption in the year the first spouse died (thus, if the exemption goes up or down, the DSUE amount does not).

Despite the availability of portability, affirmatively utilizing the exemption of the first spouse to die via so-called credit shelter trusts is still advisable in most cases for a number of reasons, including:

- creditor protection;
- spendthrift protection;
- professional management of the assets via an appropriate corporate or other Trustee, excluding appreciation of the assets from the survivor's taxable estate; and
- utilization of the generation skipping transfer tax (GST) exemption, which is not possible with portability.

Timing of Significant Gifts

It is important to deal with the significant gifts made in 2011 or 2012 in anticipation of reduced transfer tax exemptions (which did not happen) and look ahead to potential additional tax law or regulatory changes that may adversely affect estate planning.

Those individuals who made gifts in 2012 should file federal gift tax returns to start the three-year statute of limitations. Advisors should be aware that with fewer estate tax returns being filed in light of the substantially higher exemption, IRS resources may be shifted to the review of "creative" gifting strategies, such as those involving valuation discounts or other techniques to leverage the gift tax exemption.

Estate Planning in 2013 After the Biggest Planning and Wealth Transfer Year Ever

Many 2012 gifts were made to defective grantor trusts that often included, perhaps among other provisions, the power of the grantor to substitute assets of equal value. Such a provision provides flexibility and the opportunity to swap complex assets or those that are difficult to value (and thus could not be readily transferred by year end), now that time is not of the essence. The presenters recommended strict adherence to formalities in executing swaps, such as what would normally occur between third parties at arm's length.

Transfers to such trusts potentially provide relief to those with donor's remorse to exchange assets, for example, nonincome-producing assets for investment assets originally gifted in 2012. A donor might even consider purchasing assets back in exchange for a promissory note based on the low current intra-family loan interest rates.

In addressing the notion of completely nullifying and returning gifts made in 2012, presenters noted that actual rescission of gifts would require satisfying applicable state law requirements, which generally require demonstrating that a mistake of law or mistake of fact occurred. Whether being wrong in predicting that the lifetime gift tax exemption would be reduced in 2013 constitutes either a mistake of law or fact seems unlikely. Further, several states require that a valid rescission must occur in the same year, which would eliminate the possibility of rescinding 2012 gifts made by transferors in such states.

Advisors might want to consider a formula clause for assets without a readily ascertainable fair market value or for which valuation discounts have been taken (such as FLP or LLC interests). Such clauses provide for adjustment of the amount of assets transferred or for transfer of value in excess of the intended gift amount to be transferred to an exempt transferee such as charity, in the event of IRS valuation challenges, to avoid gift tax liability. Such clauses are discussed further below in light of the recent *Estate of Wandry v. Commissioner*[3] case approving of one type of formula clause.

continued on page 8

3 Estate of Wandry v. Commissioner, T.C. Memorandum 2012-88 (March 26, 2012).

Estate Planning continued

Many opportunities may have been created by 2012 gifting. Transferors might vconsider leveraging gifts made to trusts in 2012 by perhaps selling additional assets to such trusts in exchange for a promissory note issued by the trustee, using the gifted assets as collateral.

For those individuals who have GRATs that will terminate in 2013 or later, allocating some of the transferor's increased GST exemption to the remainder interest could be considered. This exemption could potentially remain in trust for future generations on an estate tax-exempt basis.

The presenters also covered gift-splitting elections available for 2012 gifts made to trusts wherein a spouse has a beneficial interest, often referred to as a Spousal Lifetime Access Trust (SLAT). A gift-splitting election would treat the transfer as if it were made one-half by each spouse, thus utilizing each spouse's lifetime gift tax exemption to that extent. The presenters noted that a gift-splitting election in such a case would be possible only if the spouse's beneficial interest is ascertainable and deducted from the portion of the transfer for which the split election is made.

Family Limited Partnerships and Limited Liability Companies

Several presentations discussed the use of FLPs and LLCs in estate planning.

Qualifying Gifts of FLP or LLC Interests

The presenters discussed qualifying gifts of FLP or LLC interests for the gift tax annual exclusion (which increased to $14,000 per donee in 2013), which requires the gift of a so-called present interest. In *Estate of Wimmer v. Commissioner*,[4] the tax court held that to qualify as a present interest gift, FLP interests must satisfy a three-part test: income is generated by the partnership, some of the income flows through to the partners, and the portion flowing through is readily ascertainable. Although the FLP interests satisfied all three parts of the test in Wimmer, many family entities may not satisfy these requirements.

Fortunately, in light of ATRA, satisfying the present interest requirement for the gift tax annual exclusion will likely not be as critical in light of the inflation-adjusted additional lifetime gift tax exemption that will be available annually. Gifts utilizing the lifetime gift tax exemption need not satisfy a present interest test.

Tax Court Rulings Affecting FLPs and LLCs

The presentations also covered some generally favorable Tax Court rulings in 2012 affecting FLPs and LLCs.

Estate of Wandry v. Commissioner[3] was discussed at length. In that case, the U.S. Tax Court upheld a formula clause approach to gifting LLC interests. Previous cases involved formula allocation clauses (wherein any excess value of a gifted interest beyond a certain amount, such as the transferor's available gift tax exemption, would be allocated to a gift tax-exempt entity such as charity). On the other hand, Wandry involved a formula transfer clause as summarized below.

The formula transfer clause in Wandry differs from a formula allocation clause in that the transferor's financial position is contingent on the prospective outcome of an IRS valuation challenge, which may affect the total fractional portion, or units, of an asset ultimately transferred. On the other hand, a formula allocation clause involves transfer of a definitive number of units, or fraction, of an asset by the transferor; only the recipients of that asset and allocation among them may be altered by an IRS valuation challenge.

With a formula allocation clause, the excess gift resulting from an unfavorable IRS valuation challenge need not pass directly to charity in order to avoid gift tax on that amount. Other potential recipients could include spouses or marital trusts, zeroed-out GRATs, or zeroed-out Charitable Lead Annuity Trusts (CLATs).

In *Stone v. Commissioner*,[5] the Tax Court held that a requisite nontax purpose for forming the FLP in that case could be found in the motive to develop and sell the undeveloped woodlands contributed to form the partnership. The Tax Court did confirm that some nontax motive for forming an FLP is necessary. Further, because no valuation discounts were taken with respect to the transferred limited partnership interests, the precedential value of Stone is questionable.

In *Kelly v. Commissioner*,[6] the Tax Court held that FLPs formed by a guardian pursuant to a court order to protect the transferred assets from liability exposure was a valid nontax purpose.

Family Loans

With the low interest rates currently available for intra-family loans, utilizing such loans as a wealth transfer technique has become popular, either to finance techniques such as sales of

4 Estate of Wimmer v. Commissioner, T.C. Memorandum 2012-157.

5 Stone v. Commissioner, TC Memorandum 2012-48 (2012).

6 Kelly v. Commissioner, TC Memorandum 2012-73 (2012).

Estate Planning continued

assets to family trusts or for straight loans to family members or family trusts which invest for a return exceeding the low "hurdle rate."

A few considerations regarding family loans were noted:

- A popular approach is to renegotiate a family loan when the AFR declines. The presenters suggested that, although this approach is generally acceptable, frequent renegotiations over a short period of time may raise concerns. In addition, it may be appropriate to consider some form of consideration in exchange for a renegotiated lower rate in such circumstances, such as a one-time fee or different terms of payment on the new note.
- It may be advisable to utilize term notes rather than demand notes for intra-family loans in order to lock in the current ultra-low rates; demand notes involve a floating rate that changes semiannually.
- Discounting the remaining value of a family promissory note held by the lender at death for estate tax purposes may be possible based on the low interest rate relative to market rates or insufficiency of collateral relative to a typical third-party lender requirement, or both.

Conclusion

As a result of ATRA and the significant wealth transfer occurring last year in anticipation of the less favorable default environment that ATRA avoided, it seems that the focus of estate planning has shifted precipitously going forward. Speakers at the conference offered five conclusions about the state of estate planning:

- The certainty of permanent transfer tax rules allows for more confidence on the part of individuals, families, and their advisors in long-term planning decisions.
- Some individuals and married couples may feel that their net worth and anticipated growth could possibly fall within the parameters of the new estate tax exemption as indexed for inflation. Thus, they may shift their focus from wealth transfer considerations to utilization of portability and appropriate terms for the transfer and enjoyment of wealth by succeeding generations, liberated from transfer tax concerns.
- The preserved unification of the federal estate tax, gift tax, and GST tax exemptions, along with an annual inflation increase, means that affluent individuals and their advisors should focus on executing wealth transfer strategies on an ongoing basis. In some cases, the structures (for example, trusts, FLPs) established in the wealth transfers of 2012 could be utilized going forward with respect to the annual increased transfer tax exemption amounts. Further, for now, leveraged techniques for wealth transfer remain significant for affluent and ultra-affluent individuals and their families.
- The ongoing debt crisis may pressure Congress to create restrictions on favorable wealth transfer techniques such as GRATs and valuation discounts through FLPs and LLCs. Accordingly, it seems advisable to consider and execute such strategies before they are possibly either restricted or eliminated.
- With higher top income tax rates and long-term capital gains rates for affluent taxpayers (along with a new health-care tax on investment income), as well as a new modest top estate tax rate, income tax planning and stepped-up basis considerations seem to have become more significant.

Martyn S. Babitz, J.D. is a Senior Vice President and National Director of Estate Planning for Hawthorn, PNC Family Wealth. The author gratefully acknowledges the substantial contribution of Michael Monroe, Vice President and Market Director of Wealth Strategy.

January Luncheon Program

PEPC President Mark Eskin with our speakers Stephen A. Serfass and Alan M. Kidd from Drinker Biddle & Reath LLP

Revisiting Passive Activities in Light of Section 1411

Daniel Carmody, Esq. and Casey August, Esq.

As you are likely aware, for tax years beginning after 2012 there is a new 3.8% tax imposed on certain passive investment income of individuals, trusts and estates under section 1411 of the Internal Revenue Code. Congress enacted section 1411 (which comprises new chapter 2A of the Code) as part of the Health Care and Education Reconciliation Act of 2010, ostensibly to support new health care expenditures related to so-called "Obamacare" initiatives. This new tax on "net investment income" is in addition to the normal income tax and generally applies only to the extent a taxpayer's adjusted gross income exceeds a designated threshold (for married individuals filing jointly, $250,000, for single individuals, $200,000, and for trusts and estates, $11,950 for 2013).

This new tax builds off of established concepts from the section 469 passive activity loss rules. In particular, passive investment income subject to the section 1411 tax will include income (including disposition gain) derived from the conduct of a trade or business considered a passive activity under section 469 rules. In order to avoid the section 1411 tax, trade or business income should be generated in activities that the taxpayer is active in (i.e., activities in which the taxpayer materially participates).

Estate planners should take particular notice of the intersection of the new section 1411 tax and the section 469 passive activity rules and their effect on existing and contemplated estate planning structures. Consider a simple family limited partnership structure that was put in place to facilitate the transfer of interests in a family business. Now, if the family business is sold by the limited partnership, each partner will be subject to an additional 3.8% tax unless the partner can establish that the underlying business was not a passive activity for such partner. If the family business has historically been profitable, 2013 may be the first year family members ask whether or not the business is a passive activity for them.

In light of the renewed importance of the section 469 passive activity rules, this discussion addresses the general legal standards under section 469 and presents a high-level summary of the practical considerations in establishing material participation. In particular, this discussion focuses on: (1) establishing the parameters of the relevant trade or business activity; and (2) establishing material participation.

1. Establishing the parameters of the relevant trade or business activity

Generally, a passive activity is one involving the conduct of a trade or business in which the taxpayer does not materially participate. Section 469(c)(1). Subject to certain exceptions, a "rental activity" is treated as a per se passive activity without regard to whether the taxpayer materially participates. Section 469(c)(2) and (4). A "rental activity" is one in which payments are principally for the use of tangible property. Section 469(j)(8).

While rental activities are normally per se passive activities, section 469(c)(7) creates an exception for rental real estate activities that is only available to "real estate professionals." A real estate professional is a person that: (1) provides more than half of his or her services in real property trades or businesses that involve material participation; and (2) provides more than 750 hours of services in real property trades or businesses that involve material participation. A taxpayer's real property trades or businesses are not just limited to rental real estate, but will include any "real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business." The IRS has traditionally taken the view that a real estate agent is not engaged in a real property trade or business, but this view was just rejected by the Tax Court in *Fitch v. Commissioner*, T.C. Memo. 2012-358.

February Luncheon Program

Tim Gillespie and Heather Drysdale from Wilmington Trust with our speaker Richard Nenno and PEPC President Mark Eskin and Marguerite Weese

Revisiting continued

A taxpayer that qualifies as a "real estate professional" removes the per se passive taint for his or her rental real estate activities; however, that taxpayer will still need to establish material participation to escape the passive characterization. Under section 469(c)(7)(A), a taxpayer is required to treat each rental real estate property as a separate activity unless an election is made to treat all rental properties as a single activity. The real estate professional rules are particularly important because the tax law has traditionally accepted that the rental of real property will represent a trade or business activity. See, e.g., *Higgins v. Commissioner*, 312 U.S. 212 (1941). If the IRS holds to this traditional view, then the real estate professional rules may be the only way to remove income and gain associated with rental properties from the scope of section 1411.

For purposes of framing the relevant trade or business for section 469, one or more trade or business activities or rental activities may generally be treated as a single activity, or "grouped," if the activities constitute an appropriate economic unit for the measurement of gain or loss. Section 1.469-4(c)(1), Income Tax Regs. The regulations contemplate that there is a flexible analysis for determining the existence of an appropriate economic unit, but there are certain grouping restrictions (e.g., a rental activity cannot be grouped with another trade or business activity unless certain other exceptions are met).

Due to these grouping rules, a key point to working with section 469 (and now section 1411) is that the relevant activity is not always determined by the parameters of a legal entity. A pass-through entity is required to make an initial grouping of its activities for purposes of section 469, but partners and shareholders may then group the activities conducted through those entities with activities conducted through other entities or with activities conducted directly. Section 1.469-4(d)(5)(i), Income Tax Regs. This means that a taxpayer's "activity" for purposes of section 469 may be conducted through multiple entities.

Once a taxpayer has grouped activities for purposes of section 469, the taxpayer may generally not regroup those activities in subsequent taxable years. The IRS and Treasury recently proposed regulations that would give taxpayers subject to section 1411 a one-time opportunity to regroup their activities. Section 1.469-11(b)(3)(iv), Prop. Income Tax Regs.

The importance of these rules becomes clear when we return to the simple example of the family limited partnership that sells its operating business in 2013 and expand the facts to include Son, a limited partner who has not been involved with the family business. Before we can address whether Son will be subject to the extra 3.8% tax on his share of the gain, we first need to determine whether Son's activity for purposes of section 469 was limited to the business conducted through the family limited partnership. Larger activity groupings tend to encompass more hours of participation, which will make the resulting activity less likely to be characterized as a passive activity with income subject to section 1411. If Son is involved with a second activity outside of the limited partnership, and the two activities could be grouped together under the regulations, then establishing a larger activity may remove Son's disposition gain from the reach of section 1411.

2. Establishing Material participation

Material participation is defined as involvement in the operations of an activity that is regular, continuous, and substantial. Section 469(h)(1). The IRS takes the position that an individual will only be treated as materially participating if he or she satisfies one of seven largely quantitative regulatory tests. Section 1.469-5T(a)(1)-(7), Temp. Income Tax Regs. Specifically, the regulatory tests look to the individual's participation and ask whether one of the following tests can be satisfied:

(1) Was there more than 500 hours of participation?

(2) Did the participation constitute substantially all participation in the activity for all individuals (including nonowners)?

(3) Was there at least 100 hours of participation with no other person (including nonowners) participating more than the individual?

(4) Was the participation in a "significant participation activity" (between 100 and 500 hours) with the individual having more than 500 hours in all significant participation activities?

(5) Did the individual materially participate for any five of the prior ten taxable years?

(6) If the activity is a personal service activity, did the individual materially participate in the activity for any three preceding taxable years?

(7) Assuming there were at least 100 hours of participation, was the participation on a "regular, continuous, and substantial basis" during the year under the facts and circumstances?

Individuals that own an activity through a limited partnership (or through an entity such as a limited liability company that

continued on page 12

Revisiting continued

would be treated as a limited partnership under proposed regulations) can only use the 500 hours test, the "five of ten" prior year test, or the "any three" prior year test for personal services.

Not all time will count for testing as "material participation." Among other things, the regulations carve out work done in an individual's capacity as an investor unless the individual is directly involved in the day-to-day management or operations of the activity. Work done as an investor includes: (1) studying and reviewing financial statements or reports on operations; (2) preparing or compiling summaries or analysis for the individual's own use; and (3) monitoring the finances or operations of the activity in a nonmanagerial capacity. The courts have been fairly quick to characterize a taxpayer's involvement and oversight as "investor hours" that may be disregarded when there is a third party providing the full time management (as in *Iversen v. Commissioner*, T.C. Memo. 2012-19) or when a management fee is being paid to a service provider (as in *Goshorn v. Commissioner*, T.C. Memo. 1993-578). A taxpayer that uses a professional manager for his or her trade or business should anticipate that the IRS may characterize the taxpayer's hours as mere "investor" hours.

The regulations equate "participation" with "work," which raises an interesting issue about whether travel time should count toward material participation. The IRS has traditionally taken the position that travel time by itself would not count as participation. However, in the recent case of *Trzeciak v. Commissioner*, T.C. Memo. 2012-83, the IRS conceded this issue and allowed the taxpayer to consider the time spent traveling between her personal residence (which was her primary place of business) and her various rental properties as part of her calculation of relevant time. Taxpayers who are relying on travel time to establish material participation should consider that case carefully.

The largely quantitative tests under section 469 ultimately present a practical issue -- how can a taxpayer prove material participation? On this point the regulations provide that an individual's participation may be established by any reasonable means, and that a taxpayer need not have "[c]ontemporaneous daily time reports, logs, or similar documents" if the extent of such participation (i.e., hours and services) can be established by other reasonable means. Section 1.469-5T(f)(4) Temp. Income Tax Regs. Despite the apparent leniency of the regulations, the courts have been very reluctant to accept noncontemporaneous evidence of participation, often dismissing such evidence as a "ballpark guesstimate" of time committed to participation in an activity. See, e.g., *Bailey v. Commissioner*, T.C. Memo. 2001-296.

Best practices in this area would therefore involve a daily activity log because contemporaneous documentation tends to be more persuasive for the IRS (and ultimately the courts). However, there are a few cases that illustrate how taxpayers can meet their burden without contemporaneous documentation. For example, in *Al Assaf v. Commissioner*, T.C. Memo. 2005-14, the issue was whether the taxpayer materially participated in her office building activity. In that case, the taxpayer was unable to provide any contemporaneous logs or calendars, but was able to provide testimony and evidence of her current involvement and testified credibly that the degree of her participation had not changed. Similarly, in *Harrison v. Commissioner*, T.C. Memo. 1996-509, the taxpayer was able to present third party testimony that accounted for 300 actual hours for his treasure hunting activity (his time hauling heavy equipment and manning pumps at the excavation points) and was able to persuade the court that his miscellaneous other activities accounted for at least another 200 hours. An important element from both the *Al Assaf* case and the *Harrison* case was that the taxpayer could produce credible third party witnesses to support the claimed participation.

As a practical matter then, if a client is not maintaining contemporaneous records, will the client be able to produce evidence of an equivalent nature? Changes in circumstances between the year at issue and the current year may make such a showing difficult. For example, if there has been turn-over at the employee level, are there knowledgeable workers who are willing to testify as to the owner's involvement? Alternatively, are there archived e-mails or phone records that could be used to reconstruct participation? If a client has not maintained contemporaneous records during the taxable year, it may be helpful to assemble documentation as part of the return preparation while memories are still fresh and materials are still available. A taxpayer's failure to document material participation may now mean an extra 3.8% tax burden as a result of section 1411.

A taxpayer should always provide consistent and credible records. Not surprisingly, valuable guidance in the case law comes in the form of negative examples involving apparently unreliable records. For instance, a taxpayer would be well advised to claim no more than 24 hours of work for a single day. See, e.g., *Goolsby v. Commissioner*, T.C. Memo. 2010-64. Similarly, a taxpayer would be equally well advised to claim no more than 52 weeks for a year. See, e.g., *Hill v. Commissioner*, T.C. Memo. 2010-200. Last, and certainly not least, the courts will not find a "contemporaneous" record credible where purported activity is memorialized in the generic calendar that was copyrighted in a subsequent year. See, e.g., *Hassanipour v. Commissioner*, T.C. Memo. 2013-88.

Revisiting continued

Conclusion

The new 3.8% tax on passive investments under section 1411 is going to require taxpayers and their advisers to consider the application of the section 469 concepts of "passive activity" and "material participation" from a fresh perspective. Historically, income from a passive activity was a good thing because it helped to trigger losses from passive activities. Now that income from a passive activity will carry an added tax burden, it may be appropriate for taxpayers to reconsider the scope of their respective activities and the manner in which they have been measuring (and documenting) material participation.

Daniel Carmody, Esq. is of counsel in Morgan Lewis's Tax Practice. He was previously with the Office of Chief Counsel for the IRS where his responsibilities included supporting the Global High Wealth audit initiative.

Casey August, Esq. is an associate in Morgan Lewis's Tax Practice. He focuses his practice on federal tax planning and controversy.

When the Time is Right, Valuation is the Way to Go

Amy Parenti

As the baby boomer generation ages, often accompanied by health concerns and income restrictions, these individuals, their families, and the professionals they consult will face new challenges with regards to estate planning and downsizing. Older individuals may need to move from a larger residence where they have resided for many years to a smaller apartment, prepare their estate, and later, empty their home. Often, it's not just the older individual who is considering the options and seeking solutions, but also the children or trusted professionals may become involved or consulted in the decision making process.

At first glance, estate planning, downsizing, and disposing of years of accumulated memories, family treasures, antiques, furniture, collections, and just "stuff" appears daunting and overwhelming. Any professional tasked with assisting a client may wrestle with recognizing what is of value amongst all of his or her possessions. A family member or client may have questions such as: "What is valuable?" "Should we have a garage sale?" or "Is there a financial gain to a charitable donation?" When looking for advice on getting the maximum financial return for a client or assisting with the question of equitable distribution, a professional appraiser can offer answers as well as guidance.

Selecting the Appraiser – What to Know

There are several criteria to consider when selecting a personal property appraiser. Some important points to consider are Uniform Standards of Professional Appraisal Practice (USPAP) certification, membership in a professional organization, specialization, formal training, and practice longevity.

In response to the savings and loan crisis of the early 1980s, USPAP standards were put forth by the Appraisal Foundation to establish ethical practice standards in appraisal preparation-primarily for real estate. Over the years, the appraisal industry has adopted the use of these standards for personal property as well. USPAP is considered to be the "quality control standard" and the "recognized standard of appraisal practice." The IRS recognizes USPAP standards for all submitted appraisals, e.g. estate and charitable gift appraisals. Engaging an appraiser who is USPAP certified will provide the client with a level of confidence and assurance that a completed appraisal conforms to ethical and professional standards.

continued on page 14

Valuation continued

There are several industry associations such as the American Appraisers Association (AAA), the American Society of Appraisers (ASA) or the International Society of Appraisers (ISA) that endeavor, through membership, to offer the public qualified and educated appraisers. These organizations offer USPAP training and testing, continuing education programs, advanced certification in practice areas and appraiser recommendations. It is recommended to ask if the appraiser is a member of one of these professional associations.

Personal property appraisers practice as independent practitioners, in group practices, or at auction houses. Some appraisers specialize in certain areas, i.e. Fine Art, Books & Ephemera or they may be generalists. It is important to know what type of property needs to be appraised so the appropriate appraiser can be engaged. Needless to say, for a fine art collection an appraiser whose specialty is art should be sought or if the client has a coin collection, an appraiser who specializes in coins should be considered. If the property has small collections or general household goods, a generalist would suffice.

Appraisal departments from auction houses often have specialists on staff that are excellent resources for identifying and valuing a variety of property. Moreover, auction house appraisers are regularly exposed to the current market in all areas as a result of the cyclical auction schedule, ensuring that their understanding of the market is current.

If a valuation is made as part of an estate planning process, consideration should be given to updating the appraisal on a regular basis. Values often change for many reasons and it is important to keep current with the ever-changing market. For example, in 2009 a set of "New" chairs by George Nakashima sold for $3,500 while in 2011 a similar set sold for $15,625.

When selecting an appraiser, the institutional nature of the record keeping should be factored into account. For this reason, the record keeping habits and capability of the appraiser should outlive the appraisal - the appraisal becomes a living document. This is usually best accomplished by a firm that is in the business of making appraisals on a regular basis.

Making Choices – Keep, Gift or Sell

Once an appraiser has been vetted and selected, the valuation process can begin with several options and approaches to solving the problem at hand.

Depending on an individual or family's needs, a formal appraisal which includes Fair Market Value (FMV) assessment of the household contents may be useful. This effort will have a cost associated with it in the form of an appraisal fee but results in a written document. The deliverable advantage of an appraisal document is that it provides the client with an objective third party opinion of value and establishes unbiased guidelines for equitable distribution among family members.

Another option, usually available at auction houses, is an informal walk-through providing verbal estimates and indication of an item's salability. This option is usually not expensive but produces no documentation. The motive in either case is to gather details and information about value and each process will reveal current market trends, indicate property for possible sale and the appropriate market, answer questions of what is suitable for donation, settle questions of distribution and address what items should just be thrown away.

Once value has been assigned to individual items, the next step is usually distribution and/or disposal. Depending on the circumstances, this can be a simple process, a complex process or anywhere in between. The complexity of distribution can be further complicated by the numbers of decision makers involved – i.e. children, executors or beneficiaries. Very often, the best opportunity to minimize the impact of these elements is during the planning phases of the estate. Real estate, fungible securities and life insurance are the first and only items that decision makers allocate when addressing the distribution to beneficiaries. Tangible personal property is rarely considered in the planning stages of an estate. Another advantage of making these decisions far in advance is that, if the value of individual items is pre-determined, balancing the equitable distribution decisions becomes less complicated. For example, there may be one item that has appreciated dramatically over the years. If this item is specifically bequeathed to a beneficiary, any inequity for the other beneficiaries can be made up in alternate forms – either from another piece of property in the estate or cash/securities.

As part of estate planning, it may be desirable to donate or gift high value personal property to a suitable institution. In these circumstances and because the IRS looks for USPAP compliant documents, it is imperative to have an independent, objective, and USPAP compliant appraisal of that property. Decisions regarding the estate will have varying consequences when it comes to determining taxes, so careful attention must be paid when making these choices.

Disposal does not necessarily mean to throw away. Disposal may also mean selling either through auction or private sales. When considering how to sell the remaining property, it is important to be able to rely on an appraisal as a reasonable expectation of value. Of course it is important for family

Valuation continued

members to remove any items they wish to keep before a sale is scheduled or a clean out occurs. Consideration should also be given to the costs of selling. An auction house has commissions and fees that will be deducted from the proceeds of the sale of the property. If the value of the property is relatively high, these costs tend to decrease. Conversely, if the value of the property is less, the relative costs are higher.

Most auctions will work very hard to promote salable property – think in terms of a widely held stock or bond - there is always a market and this same logic holds for tangible personal property. However, there are differences. Collectible property is not offered with the same frequency as stocks and bonds. Generally, the market for a collecting interest is short lived – meaning only during the auction period.

Lastly, any remaining items that have little or no value may be donated or trashed. The appraiser will have access to resources in order to aid in the removal and disposal of property. This usually includes the physical cleaning out of the residence(s) leaving them 'broom clean'. It is important to note, auction is an efficient method of converting assets to cash.

Examples of Personal Property/Market Trends

Recently a Freeman's appraiser was contacted regarding a painted blanket chest that had previously been stored in a barn. After examination and research, it was determined to be a rare painted blanket chest by Johannes Spitler (1774-1837) and sold at auction for $350,500. In another case, a painting by Martha Walters was identified in an estate and sold at auction for $70,000. At another recent estate appraisal, the daughter of a decedent was unaware of the value of a number of rings that had been owned by her mother. After the appraisal was completed, she learned their value was $50,000. Of course the news is not always positive. Certain markets are depressed and the appraiser may be a bearer of bad news, e.g. the markets for upright pianos, mid-late 20th century cut glass, and calendar collector plates have suffered in recent years. While not every appraisal garners success stories, making the inquiry and understanding the value can make a big difference and sets expectations for the executor and or beneficiaries.

Now You Know What to Do…

When helping a client face the issues of aging and estate administration or the complexities of dispersing an estate's personal property, engaging an appraiser who is USPAP certified appraiser, knowledgeable, possibly a specialist, a member of a professional association and has demonstrated longevity is the solution for all the issues previously discussed. A professional appraiser will be able to address the question of value; find the best available market for items; supply the required legal documents; and provide the due diligence clients and family members deserve and expect. Accurate information provides decision makers more navigable paths to success and having the correct understanding of values and markets allows the advisor to work in concert with decision makers to answer the questions of estate planning, distribution, or sale. Whether the decision is made to sell at auction or private sale, donate, or distribute, understanding the value potential and the related challenges will offer professionals and clients the ability to make the most informed and appropriate decisions.

Amy Parenti is a USPAP certified appraiser and is head of the appraisal department for Trusts & Estates at Freeman's, America's oldest auction house, in Philadelphia, PA. With a passion for art and a special interest in American silver, modern furniture and decorative arts, she previously worked as a specialist in the American Furniture & Decorative Arts Department. Amy currently acts as Freeman's regional representative for the Bucks County and Montgomery County and Princeton, NJ areas.

March Luncheon Program

Sponsor Maurice Offit, speaker Anirban Basu and President Mark Eskin.

Life Insurance Planning: Common Issues to Watch Out For

J.R. Burke, CLU,ChFC,CFP®

Life insurance is a powerful tool that can accomplish many important financial objectives. Through careful and thoughtful planning, life insurance can be used to effectuate a tax-free transfer of assets from one generation to the next, provide a tax-free benefit to employees, or indemnify a business from loss. However, if improperly managed, the policy proceeds may be inadvertently subject to estate, gift, or income tax.

The tax code is full of traps and pitfalls that are unique to life insurance and may be disastrous to the clients of an uninformed advisor. Understanding the constantly evolving landscape of life insurance products and tax laws, as well as how to avoid common issues that arise from planning mistakes, will allow advisors to maximize their value to clients.

Improper Policy Ownership & Beneficiary Arrangements

One of the most common mistakes occurs in the most fundamental part of any life insurance arrangement: who will own the policy and to whom will benefits be paid.

Inclusion in Taxable Estate

For smaller estates, the simplest arrangement can be for the insured to own the policy, naming the insured's estate as beneficiary. Unfortunately, this structure results in the life insurance proceeds being included in the taxable estate of the insured, with proceeds needlessly exposed to the claims of creditors of the estate. In addition, policy proceeds will be subject to the probate process which can be both expensive and time consuming.

This situation may also occur when the policy owner has named an individual as beneficiary without naming a contingent beneficiary. In the event the beneficiary predeceases the policy owner, policy death benefits may also be paid to the insured's estate. This problem can be easily avoided by naming contingent beneficiaries on the policy application.

Forfeiture of Ownership

In order to avoid inclusion of the policy proceeds in the taxable estate, clients may choose to have the policy owned by their adult children. While this arrangement does accomplish the objective of removing the policy from the estate, potential negative consequences exist, including:

- A loss of control over the policy, including the ability to name the policy beneficiary. In order to avoid inclusion of the policy in the estate of the parent, the parent cannot maintain any incidents of ownership in the policy (effectively, any significant ownership power).
- A lack of creditor protection for the children, potentially exposing policy cash values that are in the policy to the claims of the children's creditors.
- A tax impact on the insured parent who opts to pay future insurance policy premiums. Such payments are considered gifts, resulting in potential gift taxation. In addition, premiums paid directly to the insurance company may not qualify for the annual exclusion.

A variation on this approach involves naming a spouse as owner and a child as a beneficiary. This is a common mistake with the potential for adverse tax consequences. When the owner, insured, and beneficiary are all different parties, the death benefit proceeds in the policy may be considered a taxable transfer from the owner to the beneficiary. For this reason, it is important that if the insured is not the owner, the owner and beneficiary are the same.

Irrevocable Life Insurance Trust

A common method of keeping life insurance proceeds out of an estate, while ensuring that the estate has the necessary amount of liquidity, is to create an irrevocable life insurance trust (ILIT). An ILIT can remove assets from the grantor's and surviving spouse's estates, and can also make the insurance proceeds available to meet the needs of both the surviving spouse and the decedent's estate (e.g., the trust can purchase illiquid assets from the estate to provide liquidity). It is generally best for the trust document to allow the trustee to apply for, own, and be the beneficiary of the insurance policy.

As an alternative to having a trust purchase the policy, the insured may choose to transfer an existing policy to a trust. Unless done carefully, such a transfer can have adverse tax consequences:

- A gift of a policy or funds to an irrevocable life insurance trust is a taxable event.
- A policy gifted to a trust within three years of death will be included in the taxable estate of the decedent.

Transfer-for-Value

A mistake to avoid in life insurance planning is the inadvertent violation of the "transfer-for value" rule. This problem occurs when an interest in a life insurance policy is transferred to

Life Insurance continued

another party in exchange for "valuable consideration." In most circumstances, life insurance death benefits are payable free of income tax. However, if the transfer-for-value rule is violated, the death benefit proceeds are taxable.

Transfer is broadly defined to include any transfer of a right to receive all, or part, of a life insurance policy. A transfer of the ownership of a policy does not have to occur for a transfer to take place. For example, a transfer-for-value violation can be triggered by naming someone as the beneficiary in exchange for valuable consideration.

Consideration is also broadly defined. While it is clear that a transfer-for-value violation occurs when an individual transfers the ownership of his or her policy in exchange for cash, money does not need to change hands for the rule to apply. A mutual promise can be enough to cause the transfer-for-value rule to apply. For example, the change of policy ownership or beneficiary designation from a business to a shareholder to fund a cross-purchase buy-sell arrangement will trigger the rule because the promise to buy the stock is deemed to be the consideration.

There are exceptions to the transfer-for-value rule. If a transfer for valuable consideration occurs, the death benefit proceeds will not be subject to income tax if the transfer is made to the following exempt transferees:

- The insured, including a Grantor Trust created by the insured[1]
- A partner of the insured
- A partnership in which the insured is a partner or
- A corporation in which the insured is an officer or shareholder
- A transfer in which the basis of the policy in the hands of the transferee was determinable in part by reference to the basis of the policy in the hands of the transferor

1035 Exchanges

An advantage of owning a permanent life insurance policy is the ability to exchange the policy for a new contract. Section 1035 of the Internal Revenue Code allows such exchanges to occur without requiring the policy owner to recognize any gain that has accumulated, instead allowing the basis and gain to be carried over to the new insurance policy. Advisors need to be aware of limits on non-recognition treatment and a tax trap that exists for a Section 1035 exchange of life insurance policies with outstanding policy loans.

1 Letter Ruling 201235006

Permitted Exchanges

Section 1035 specifically provides that no gain or loss shall be recognized on the exchange of:

(1) A contract of life insurance for a) another contract of life insurance, b) an endowment[2], c) an annuity contract, or d) a qualified long-term care insurance contract

(2) A contract of endowment insurance for a) another contract of endowment insurance which provides for regular payments beginning at a date not later than the date payments would have begun under the contract exchanged, b) an annuity contract, or c) a qualified long-term care insurance contract

(3) An annuity contract for a) another annuity contract or b) a qualified long-term care insurance contract

(4) A qualified long-term care insurance contract for another qualified long-term care insurance contract

As noted above, a life insurance policy can be exchanged for an annuity or endowment; however, Section 1035 does not permit an annuity or endowment to be exchanged for a life insurance policy. This is because the intent of Section 1035 is to allow for tax-deferral, rather than tax elimination. For example, if an annuity or an endowment is exchanged for a permanent life contract, any gain in the contract at the time of exchange would be currently reportable (if the annuity or endowment were to mature, the proceeds would be taxable). By exchanging an annuity or endowment for income tax free life insurance death benefit proceeds, the owner would avoid tax on the gain simply by holding on to the new policy until death.

Same Insured Requirement

Case law and various Private Letter Rulings from the Internal Revenue Service (IRS) have indicated that in order for Section 1035 to apply, the insured in the new contract must be the same as the insured in the old contract. This requirement prohibits certain exchanges from qualifying:

- A single life contract cannot be exchanged and combined with a new insured for a joint life contract[3]
- Two single life contracts cannot be exchanged for a joint life contract[3]

continued on page 18

2 An Endowment contract is defined as a contract with an insurance company which depends in part on the life expectancy of the insured, but which may be payable in full in a single payment during his life.
3 Letter Ruling 9542037

Life Insurance continued

However, case law has indicated Section 1035 does apply when a joint life policy is exchanged for a single life policy following the death of one of the insureds[4]. Note that while such an exchange may be permissible, the life insurance carriers involved may not always be able to administratively accommodate this type of request.

In addition, exchanging one policy into two or more new policies may or may not qualify for tax-free treatment under Section 1035[5] and, once again, the life insurance carriers involved may not always be able to administratively accommodate this type of request.

1035 Exchanges of Policies with Outstanding Loans

Policy owners must take care when exchanging a policy with an existing policy loan. Exchanges with existing loans may result in an unintended tax consequence. The IRS has successfully argued that the release of any debt in the exchange of a life insurance policy should be considered taxable to the policy owner[6].

Technically, the release of such debt is classified as "boot". The name boot comes from the idea that through the exchange the policy owner would be receiving a new policy as well as relief from policy indebtedness "to boot".

When there is a loan against an existing policy, it may be possible for the insurance carrier to issue a new policy subject to the same amount of debt (i.e., carry over the loan from the old policy to the new).

In some instances, policy owners may wish to pay off the loan either prior to or immediately following the exchange, using either an outside source of funds or, in some cases, a withdrawal from the policy itself. Again, care must be exercised to avoid adverse tax consequences. The IRS has successfully argued that the retirement of the loan in close proximity to the exchange is a step-transaction intended to circumvent the taxation of boot[7]. It is therefore inadvisable to consider retirement of the loan and the 1035 exchange as parts of the same decision.

The rules surrounding loan repayment in and around the time of a policy exchange are complex and each case must be evaluated on a facts and circumstances basis. Insurance carriers may differ in their interpretation of what constitutes a "close-proximity" series of events. As the insurance carrier bears the responsibility of reporting taxable events to the IRS, it is ultimately the carrier (and not the policy owner) that must determine what amount of gain, if any, is reported. Advisors are wise to avoid any transactions that could be construed as close-proximity and related, especially if they occur within the same 12 month period. In addition, surveying the insurance carrier(s) involved as to how the exchange will be reported for tax purposes prior to the exchange may help avoid unintended tax consequences.

Modified Endowment Contracts

Background & History

In the tax reform era of the mid 1980s, Congress focused on what was perceived to be an abuse of the tax-favored aspects of permanent life insurance contracts. Specifically, it was believed that life insurance policies that featured tax-deferred accumulation were no longer being used primarily for life insurance protection and were instead being used as tax-favored investment vehicles.

In response, effective June 20, 1988, life insurance policies that fail to meet the definition of life insurance under Section 7702 of the Internal Revenue Code are reclassified as Modified Endowment Contracts (MECs). Once a contract has been classified as a MEC, it will forever be deemed a MEC, and any contract it is exchanged for will be deemed a MEC.

Classification as a MEC

A contract will be classified as a MEC if, at issue, it fails the "Seven-Pay" test described in Internal Revenue Code Section 7702A. This test effectively compares the amount of premium paid into the life insurance policy to the amount of premium necessary to obtain a specific death benefit.

Material modification

In addition to being subject to MEC testing at policy inception, the seven-pay test will be re-administered upon the occurrence of any event which materially modifies the life insurance contract. Such modifications may include, but are not limited to:

- A reduction or increase in the policy's death benefit
- A conversion of a term policy to a permanent life policy
- An exchange of a permanent life policy for another life policy, whether or not the exchange is tax free under Section 1035

Consequences of a MEC

A MEC is similar to a life insurance contract in all aspects except for the following:

4 Letter Ruling 9248013 and Letter Ruling 933040
5 Conway v. Commissioner, 111 TC 350 (1998)
6 Treasury Regulation § 1.1035-1(c); Internal Revenue Code 1031(b) and(c)
7 Letter Ruling 8905004 & Letter Ruling 9141025

Life Insurance continued

- Lifetime distributions from MECs are taxable as ordinary income until the distributions exceed the gain in the MEC, (i.e., on a Last In, First Out basis)
- Policy loans and pledges of MECs as collateral for loans are taxed as MEC distributions
- A 10% penalty tax is imposed on the includible amount of the MEC distribution, with limited exceptions (e.g., the MEC owner is disabled or over age 59 ½)

Conclusion

The proper management and administration of life insurance policies is critical to avoiding unwelcome surprises that could derail an advisor/client relationship. It is important for advisors to be familiar with the common errors that occur. When in doubt, it is in the advisor's best interest to consult with an experienced life insurance professional that can provide the insight and experience necessary to produce successful results and help reinforce client relationships.

J.R. Burke is the Founding Principal of Perspective Financial Group LLC, located in Berwyn, Pa. Mr. Burke is a Board Member of the Philadelphia Estate Planning Council.

Member News

Children's Literacy Initiative (CLI) announces **David J. Bloom, JD, CFP, Senior Relationship Manager, Hawthron, PNC Family Wealth**, as its new chair of the board of directors. He looks forward to building on CLI's successes as they continue to partner with educators and the community to ensure that more low-income children are reading on grade-level by third grade.

J.R. Burke, CLU, ChFC, CFP, Principal - Perspective Financial Group LLC, was named to Philadelphia Magazine's 2012 Five Star Wealth Manager List for the second consecutive year. These wealth managers who make this list provide exceptional service and overall satisfaction for their clients. This level of excellence is achieved by fewer than 7 percent of the wealth managers in our area. J.R. was selected as a winner under the category of Financial Planning.

Eileen Dougherty, CTFA, CFP®, AEP®, ChFC® joined **Hawthorn, PNC Family Wealth**, as Senior Vice President and Senior Relationship Manager in the Philadelphia Office. She works closely with other Hawthorn Relationship Managers, Investment Advisors, Wealth Strategists and other advisors to deliver Hawthorn's integrated wealth management experience to a limited number of families and individuals.

PEPC President **Mark R. Eskin** and his business partner **Edward S. Blumenthal** of **Stedmark Partners at Janney Montgomery Scott LLC** were named as two of the "Top 1,000 Financial Advisors in America" (and top 40 in Pennsylvania) by Barron's, in its February 16, 2013 issue.

Glen Reyburn, AEP, Univest, has been awarded the Accredited Estate Planner (AEP®) accreditation. The AEP® accreditation is a graduate level specialization in estate planning that is in addition to professional credentials already recognized within the various disciplines of estate planning. It is awarded by the National Association of Estate Planners & Councils (NAEPC) to recognize estate planning professionals who meet stringent requirements of experience, knowledge, education, professional reputation and character.

2012 PEPC DISTINGUISHED ESTATE PLANNER

The Philadelphia Estate Planning Council presented its 2012 Distinguished Estate Planner Award to Robert J. Weinberg, Pepper Hamilton LLP. This award was presented at the February 19 luncheon meeting at The Union League of Philadelphia. The purpose of this award is to honor an individual for outstanding contributions in the field of estate planning.

Robert J. Weinberg is of counsel with Pepper Hamilton LLP, concentrating in estate and business planning and estate administration.

Mr. Weinberg is a fellow of the American College of Trust and Estate Counsel and a member of the American and Pennsylvania Bar Associations' Section of Real Property, Probate and Trust Law. In addition, he is a past president of the Philadelphia Estate Planning Council and served on its board of directors from 1991 to 2005. He is a member of the board of directors of the Myelodysplastic Syndromes Foundation. Mr. Weinberg serves on the board of The Lankenau Hospital Foundation, and he is a member of the Foundation's Operations Committee. He is also a member of the board of Main Line Health Real Estate, LP, an entity that manages and develops the real estate assets of a nonprofit hospital system.

Mark Blaskey presents Robert Weinberg with the 2012 Distinguished Estate Planner Award

Welcome New Members

Brandon G. Baker	Deloitte Tax, LLP
Peter J. Bietz, Esq.	Spector Gadon & Rosen P.C.
Ilona Brandt-Tom	Physician Planning Group
Mark J. Braverman	eMark Financial
Olga Briker	Haverford College
Geraldine T. Broadbent	Stratton Management Company/Semper Trust Company
Ricardo Cantu	
William F. Denney	Newton One Advisors, LLC
Mark Hasenauer	PNC Wealth Management
Caroleigh Haw	Shore Medical Center Foundation
Harrison Jacobs	Toner Driscoll Group
Averill Jarvis	Pitcairn
Loren Kagan	Kagan Financial
Melissa D. Kaiser	Pennsylvania Academy of the Fine Arts
Timothy B. Laffey	Morgan Lewis & Bockius
Matthew Lakofsky	Citrin Cooperman & Company, LLP
Jeanna Lam	L & M Law, LLC
Ronald Lebovits	Zarwin Baum Devito Kaplan Schaer & Toddy
Anne Marie Levin	Key National Trust Company of Delaware
Kathleen Maloles	L & M Law, LLC
Madeline Martin	
Theresa Massarella	PNC Bank
Michael K. McCourt	BNY Mellon Wealth Management
Mary-Helen McCulloch	Archdiocese of Philadelphia
Thomas R. McDonnell	WTAS LLC
Matt Panarese	Wilmington Trust
Christin L. Phillips	Appraisers & Planners, Inc.
Amy C. Quigg	KMS Law Offices
Michael Reynolds	Boenning & Scattergood, Inc.
Linda Richman	American Technion Society
Clark D. Robertson	Wilmington Trust Company
Kris Shaw	PLAN of PA
Amy S. Ufberg	Dechert LLP
Daniel A. White, CFP, CRPC	Ameriprise Financial
Tom Yates	The Children's Hospital of Philadelphia

THANKS TO OUR COMMITTEE VOLUNTEERS

Annual Meeting
Samuel T. Freeman, III, Co-Chair
William H. Haines, IV, Co-Chair

Awards
Mark S. Blaskey, Esq.
Michael Bonventure, CPA, CFP
Lawrence Chane
Mark Eskin
Albert Gibbons, CLU, ChFC, AEP
Kathleen Kinne
Alan Mittelman, Esq.
Douglas Simon, MD
Scott S. Small, JD
Rebecca Rosenberger Smolen, Esq.
Andrew Wilusz, ASA, Chair

Ethics
Matthew H. Allen
Angela M. Ducker, CPA
Ronald F. Duska, PhD
Samuel T. Freeman, III
Linda C. Henry
Kelly A. Johnson
Skip Massengill, Co-Chair
Melinda Rath, Esq.
Peggy M. Robus, CPA, MT, Co-Chair
James E. Shaw, Esq.
Gordon Wase
J. William Widing, III

Membership
Carol Alesi
Robert A. Bacine, Esq.
Kristen Behrens
Michael Bonventure, CPA, CFP
Jean Brooks
Ron Clark
Peter Corrado
Juanita DiMattesa, CPA
Eileen Dougherty, CTFA, CFP, AEP, ChFC
Kenneth Foley
David A. Gaynor, II
Andrew J. Haas, Esq.
William H. Haines, IV
Philip V. Jodz
Betsy J. Joyce, CPA, MBA, MT
Kara Kessinger
John B. Linvill, Jr.
Robin E. Manix
Frank J. Marcucci, Jr.
Hal S. Margolit, CPA
Rise P. Newman, Esq.
Ronald L. Noll
Mary Lisa O'Neill
Michael Paul, JD, LLM, CFP, CLU
Jay Perlman
Isabel A. Pryor
Emily J. Reich
Huldah A. Robertson, CFP
Peggy M. Robus, CPA, MT
Alexander Sanford
Kevin W. Sheehan
Adam T. Sherman
Douglas Simon, MD, Vice Chair
Scott S. Small, JD
Rebecca Rosenberger Smolen, Esq., Chair
Dennis Springer
Laura Weiner
Tim Zeigler

Newsletter
Michele L. Ahwash, CFP, CTFA, AEP
Charles M. Aulino
Robert S. Balter
David J. Bloom, JD, CFP, Co-Chair
John T. Boxer
Sarah Chappell
Richard Davis
Andrew J. Haas, Esq., Co-Chair
Holly Isdale
Madeline T. Janowski, CPA
Susan H. Kavanagh
Matthew A. Levitsky, Esq.
Joel S. Luber, Esq.
Kevin Manning, CFP
Skip Massengill
John F. McCabe
Alan Mittelman, Esq.
Jeffrey Podraza, CLU, ChFC
Richard M. Schwartz
David F. Smith
Frank Spezzano, CLU, ChFC, MSFS

Nominating
John T. Boxer
Eileen Dougherty, CTFA, CFP, AEP, ChFC
Mark Eskin, Chair
Albert Gibbons, CLU, ChFC, AEP
Scott Isdaner
Kathleen Kinne
Alan Mittelman, Esq.
Douglas Simon, MD
Scott S. Small, JD
Rebecca Rosenberger Smolen, Esq.

Programs
Georgia Z. Beit, J.D.
Mark S. Blaskey, Esq.
David J. Bloom, JD, CFP
Michael Bonventure, CPA, CFP
John T. Boxer
Alan M. Brecher
J.R. Burke, CLU, ChFC, CFP
Lawrence Chane
Deborah L. Chiumento
Richard Davis
Mark Eskin
Michael L. Feinman
Samuel T. Freeman, III
Albert Gibbons, CLU, ChFC, AEP
Regan M. Greco, Esq
Andrew J. Haas, Esq.
William H. Haines, IV
Susan Harmon, Esq.
Holly Isdale
Scott Isdaner
Philip V. Jodz
Antony Joffe
Kathleen Kinne, Chair
Craig Lichtman, MD, MBA
Hal S. Margolit, CPA
Alan Mittelman, Esq.
Maurice L. Offit
Jeffrey Podraza, CLU, ChFC
Melinda Rath, Esq.
Cliff Schlesinger, Esq.
Howard Silverman, CLU, ChFC, CAP
Douglas Simon, MD
Scott S. Small, JD
Rebecca Rosenberger Smolen, Esq., Vice Chair
William Thompson
Margarita Tulman, Esq.

Roundtable
John T. Boxer, Co-Chair
J.R. Burke, CLU, ChFC, CFP, Co-Chair

Social
Victoria Beerer
Donald P. Best
William Brams
Frank Branca, Jr.
J.R. Burke, CLU, ChFC, CFP
Joseph J. Dimaio, Jr.
Kenneth Foley
McKenzie Frankel, CFP
Samuel T. Freeman, III
Chad Friedman, CFP, CRPC
Morris Gocial, CPA/CFF, CVA, CrFA
Sheila K. Gorman, CPA/ABV, ASA, CVA
Regan M. Greco, Esq
William H. Haines, IV
Jerry M. Jevic
Marc S. Klebanoff, CPA
Mary LeFever, Co-Chair

Gary P. Lux, CLU, ChFC, CFP
Kenneth Mann, CPA, MST
Kevin Manning, CFP
Angela M. Massey
Kit McCarty, CEBS, REBC, AIF, C(k)P
Megan McCrea
Frank Merenda
Robert Miller, CLU, ChFC
Vince Mitchell, CLU, ChFC
Rise P. Newman, Esq., Co-Chair
Jay Perlman
Huldah A. Robertson, CFP
Peggy M. Robus, CPA, MT
Lawrence S. Tundidor, AAMS, AWMA
Walter H. Van Buren
Peter J. Verdi
David Watson, CLU, ChFC, AEP
Laura Weiner
Daniel J. Weiss
Tim Zeigler
Matthew J. Zonies, JD

Sponsorship

Joseph J. Dimaio, Jr.
Peter Corrado
Chad Friedman, CFP, CRPC
Andrew J. Haas, Esq.
Jerry M. Jevic
Kathleen Kinne
Skip Massengill
Alan Mittelman, Esq., Chair
Jay Perlman
Huldah A. Robertson, CFP, Vice Chair
Peggy M. Robus, CPA, MT
Lawrence S. Tundidor, AAMS, AWMA
Richard M. Schwartz
Douglas Simon, MD
Nina B. Stryker, Esq.
Andrew Wilusz, ASA

Technology

Alyse N. Blumberg, MEd, CLU, ChFC, CASL, CLTC
Michael Bonventure, CPA, CFP
Steven Fleisher
Chad Friedman, CFP, CRPC
Neil Hunt
Philip V. Jodz, Co-Chair
Kathleen Kinne
Gary P. Lux, CLU, ChFC, CFP
Robin E. Manix
Skip Massengill
Henry J. Miller, III
Anthony Mills
Jay Perlman
Huldah A. Robertson, CFP
Jeffrey Podraza, CLU, ChFC
Jordan A. Rosenblatt
Richard M. Schwartz, Co-Chair
James E. Shaw, Esq.
David F. Smith
Will Spruance
David Watson, CLU, ChFC, AEP

Women's Initative

Michele L. Ahwash, CFP, CTFA, AEP
Georgia Z. Beit, J.D.
Alyse N. Blumberg, MEd, CLU, ChFC, CASL, CLTC
Jean Brooks
Kara A. Chickson
Deborah L. Chiumento, Co-Chair
Eileen Dougherty, CTFA, CFP, AEP, ChFC
Phyllis Horn Epstein
Roz Gibbons
Sharon M. Greenberg, MS, CPA
Susan Harmon, Esq.
Kathleen S. Huang
Lynn M. Ierardi, JD
Holly Isdale
Jane M. Kerr
Michele A. Leahy, MS
Jeannette M. Leighton, CPA
Kit McCarty, CEBS, REBC, AIF®, C(k)P®
Mary-Helen McCulloch
Terri McDermott, ChFC CLU CLTC
Erin E. McQuiggan, Esq.
Patricia Meller
Rose R. Moroz, ASA
Carolyn B. Nagy
Carol Neilson
Jay Perlman
Mary Lisa O'Neill
Beth N. Packel
Emily J. Reich
Peggy M. Robus, CPA, MT
Lawrence S. Tundidor, AAMS, AWMA
Stephanie E. Sanderson-Braem, Esq.
Patricia Seelaus
Rebecca Rosenberger Smolen, Esq.
Nina B. Stryker, Esq., Co-Chair
Ruth Tanur, CPA
Margarita Tulman, Esq.
Marguerite Weese
Daniel J. Weiss
Barbara J. Wolf
Karlyn Wright
Gretchen M. Zierolf, CFP
Gary P. Lux, CLU, ChFC, CFP

ANNUAL MEETING AT THE BARNES FOUNDATION

Thursday, May 9, 2013 *– For more information please go to www.philaepc.org*

"Why Art is Different: The Life Cycle of Art Ownership"

Speakers:

Jo Backer Laird
Patterson Belknap Webb & Tyler LLP
New York, NY

Peter Stern
McLaughlin & Stern LLP
New York, NY

Agenda:

4:30 - 5:00 p.m. – Registration
5:00 - 7:00 p.m. – Remarks and Program
7:00 - 9:00 p.m. – Reception & Gallery Access

Philadelphia Estate Planning Council
P.O. Box 579
Moorestown, NJ 08057-0579

Mark Your Calendar

2013-2014 Luncheon Programs – 11:45 – 1:45 p.m.
All education programs are held at The Union League,
140 South Broad Street, Philadelphia.

September 17, 2013
Topic: TBD
Speaker: Robert S. Keebler
Keebler & Associates, Green Bay, WI
Sponsor: Hawthorn, PNC Family Wealth

October 15, 2013
Topic: What We Say Versus What our Clients Hear
Speaker: Jean Chatzky
Sponsor: TBD

November 19, 2013
Topic: Trends in Philanthropy
Speaker: Doug Bauer
Clark Foundation, New York, NY
Sponsor: Pending

January 21, 2014
Topic: Digital Death and Estate Planning for Social Media
Speaker: Robert Kirkland
Kirkland Woods, Liberty, MO
Sponsor: TBD

February 18, 2014
Topic: Spousal Transfers – During Life, at Death, and Beyond
Speaker: Barbara Sloan
McLaughlin & Stern LLP, New York, NY
Sponsor: TBD

March 18, 2014
Topic: Ethical Issues of Multi-disciplinary Teams
Speaker: Bruce Stone
Goldman Felcoski & Stone, PA, Coral Gables, FL
Sponsor: Wells Fargo

Register at www.philaepc.org