

Back to Basics in a New Era of Estate Planning

The sea of change came on New Year's Day with the passage of the American Taxpayer Relief Tax Act or ATRA. In less than three pages in that 157-page law, Congress put to rest much of the uncertainty that has plagued wealthy taxpayers for the past dozen years.

As it happened, ATRA did not change how much you can pass tax-free—during life or at death. Despite concern that the exclusion amount would revert to radically reduced levels, the opposite in fact resulted. Congress permanently froze the exclusion at \$5 million and indexed that amount for inflation. On Jan. 11, 2013 the IRS announced that, with the inflation adjustment, that exclusion amount will be \$5.25 million in 2013 (\$10.50 million for married couples). Using the recently released CPI adjustments for 2014, the exclusion amount will be \$5.34 million. The gift tax annual exclusion for gifts made in 2014 will be \$14,000 (same as for gifts made in 2013).

As a result, fewer people need to worry about estate tax. And while that means less tax-motivated estate planning, it does not mean there is suddenly no need to plan. Contrary to popular misconception, estate planning is far broader than simply planning to avoid or mitigate the estate tax laws.

Your estate consists of everything

you own when you die, including your home, personal property, investments, bank accounts, retirement plans and any interests in a family business or partnership. Beneficiary designation forms control who gets retirement accounts, along with life insurance proceeds. These designations are often in need of updating and must be coordinated with the overall estate plan and estate planning documents – frequently an overlooked item. For most other assets, you need a will or living trust that says who gets your stuff.

If you die without a will or living trust (“intestate,” in legalese), state law will determine how most of your belongings are distributed, and the result may not be what you would want. These laws establish a ranking of inheritors. For example, under Pennsylvania law, a surviving spouse receives a \$30,000 preference and one-half of everything else (children take the other one-half) left behind that's not jointly owned or covered by beneficiary designations. But for children who are minors, the surviving spouse would be the custodian of those funds until the child turns 18 (in some states this age is 21). At that point, the children can spend the funds as quickly or on whatever they wish. If you want to better control the situation and protect your children, you will need a trust created under your will.

The intestate laws are simply a starting point to understand why a customized estate plan is needed – not a substitute for one. Everyone - whether they are

single, married, divorced, with or without children, and whether owners of businesses or employees with retirement plans and beneficiary designations – can benefit from an individualized approach to their estate plan. No two people share the same assets,



same family, same goals and same values. Likewise, estate planning does not have a one-size-fits-all solution.

Simple estate planning should be a rite of passage for every 18-year-old, and evolve with wealth and relationships.



Dirk M. Simpson

Dirk M. Simpson is a principal in the Estate Planning & Administration, Corporate & Business Planning and Tax groups. His practice concentrates on trust and estate planning, business planning for closely-held companies, taxation and representation of tax-exempt entities. He also handles Orphans' Court litigation matters. Mr. Simpson can be reached at 610.941.2544 or by email to dsimpson@kaplaw.com.



KS News

Community Involvement



👉 Kaplin Stewart's team "The Kaplin Kangaroos" participated in the National Kidney Foundation walk at the Philadelphia Zoo on October 6, 2013. The team raised over \$1700.00 to help fund public health screenings, education, research and patient services in the Delaware Valley.

👉 This year Kaplin Stewart had two teams competing in the Montgomery County Literacy Network's annual Corporate Spelling Bee on October 15, 2013 in Plymouth Meeting Pennsylvania. Unfortunately we did not win the contest. We were tripped up by "infructuous." Does anyone know that word? Our teams of spellers and our band of Kaplin Stewart cheerleaders nonetheless had a lot of fun while supporting this worthy cause.

👉 **George W. Broseman**, a principal of the Land Use, Zoning & Development group, spoke at a National Business Institute program on October 1, 2013. The program was a "Practical Guide to Zoning and Land Use Law." Mr. Broseman spoke on the current case law and legislative update.

👉 **Four principals** will be speaking at the Pennsylvania Bar Institute's 17th Annual Real Estate Institute on December 5 and 6, 2013 in Philadelphia, Pennsylvania. **Sandhya M. Feltes**, of the Business & Commercial Litigation and Bankruptcy & Creditors' Rights groups, will be presenting on "Perfecting Your UCC Lien Under Pennsylvania's New Procedures," **Robert A. Korn**, of the Construction Law group, will be presenting on "Why Practitioners Should Consider Including Dispute Resolution in Real Estate Agreements," **Maury B. Reiter**, of the Estate Planning & Administration and Real Estate Transactions groups, will be presenting on "Estate Planning for Real Estate Investors," and **Neil A. Stein**, of the Land Use, Zoning & Development group, will be presenting on "Land Use Traps for the Transactional Lawyer."

👉 **William D. Auxer**, a principal of the Construction Law group will be a presenter at a Lorman Education Services seminar on March 21, 2014. Mr. Auxer will speak on "Building Codes in Pennsylvania."

👉 **Neil A. Stein**, a principal in the Land Use & Zoning group, will be teaching "Real Estate Transactions" to 2nd and 3rd year law students beginning in January, 2014, as an adjunct professor at Temple University James E. Beasley School of Law. Mr. Stein's knowledge of real estate is vast and he is a sought after author and lecturer on varied real estate and land development subjects.

KUDOS... Kaplin Stewart has received a Tier 1 ranking for Philadelphia Land Use & Zoning by *U.S. News - Best Lawyers*® "Best Law Firms" for 2014. The Tier 1 ranking was determined by a thorough evaluation that includes clients' impressive feedback and the high regard that lawyers in other firms have for our firm in response to a law firm survey that is conducted by *Best Lawyers*. We are proud and honored by this recognition of our professional excellence.

A Huge Win For Our Client

Our Tax and Transactional attorney Barry Furman persuaded the Internal Revenue Service ("IRS") to accept an offer in compromise of \$369,528 to fully satisfy our client's tax liability of more than \$1,280,884. Mr. Furman filed a petition with the U.S. Tax Court for review of the IRS determination that refused to subordinate our client's tax lien to the security interest of our client's lender and approve an installment agreement. The court granted our Motion for Summary Judgment and remanded the case to the

IRS' Appeals Office to conduct another hearing. On remand the IRS Appeals Office rejected our offer of compromise. After filing a Motion for Summary Judgment in the Tax Court asserting that the IRS erred in rejecting the offer in compromise, the court again remanded the case to the IRS for yet another hearing. On this second remand, the IRS accepted our offer that entirely settled our client's tax debt for less than thirty percent (30%). Mr. Furman's persistence secured this relief for our client.

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Meet Our Real Estate Transactional Professionals

This month, we shine the spotlight on Joshua Steinberg, an Associate in our Real Estate Transactions department.

Josh grew up the second of four boys in Bucks County before moving away to Virginia for undergraduate studies at James Madison University. While at JMU, Josh was a four year member of the club baseball team, spending the last two years as both a player and the manager. During the two years Josh spent as both a player and manager, JMU qualified for the Club Baseball World Series for the only two times in its history, and Josh had the incredible opportunity to play on major league and minor league baseball fields against the best club baseball teams in the country.

After receiving bachelor degrees in English and Kinesiology, with a minor in business, from JMU, Josh returned home to Philadelphia to attend law school at the Temple University, Beasley School of Law. During his time at Temple, Josh earned awards for excellence in

both trial advocacy and legal writing, and was a Notes and Comments editor, and published author, for the Temple Journal of Science, Technology and Environmental Law.

Prior to joining Kaplin Stewart, Josh was a litigator at a civil defense firm in Philadelphia.

After five years as a trial lawyer, Josh realized that litigation was not the field in which he wanted to spend the rest of his legal career, and he jumped at the opportunity to join Kaplin Stewart's real estate and corporate transactions team. He could not be happier with his decision and is enjoying his real estate and corporate transaction practice.

When he's not working, Josh loves spending time and traveling with his wife and two children. He also



Joshua Steinberg

enjoys playing basketball, rooting for the Phillies, Flyers, Eagles and Sixers, and always looks forward to reunions with his three brothers. Though Josh reluctantly admits that his baseball playing career is over, he eagerly awaits the opportunity to get behind the bench again to coach his kids' teams.

Do You Know...

You may be surprised to learn that adult children are legally responsible for paying their parents' medical bills, if the parents are unable to pay, under Pennsylvania and New Jersey law. These filial support statutes, which date back to colonial times, were mostly forgotten after Social Security was passed. Federal law now bars states from considering the financial responsibility of children in determining the parent's eligibility for Medicaid. Many states therefore repealed their filial support statutes. A majority of states, however, left the statute on the books and medical care providers are now beginning to enforce them, especially in Pennsylvania.

Pennsylvania's statute says that unless financially unable to do so, a spouse, parent and child have the "responsibility to care for and maintain or financially assist an indigent

person, regardless of whether that person is a public charge." 23 Pa.C.S.A. § 4603. The statute permits either the indigent person or the medical care provider to sue the children for payment of medical bills. Nursing homes in Pennsylvania have successfully brought suit under the statute to compel adult children to pay the parent's bills. Since you could become liable for your parents' unpaid medical bills, -- regardless of whether you were actually involved in your parents' care decisions -- you and your parents should consider consulting with an estate and trust attorney to determine the best ways to provide for the payment of your loved ones' long-term medical care.



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Legal Perspectives

Why the 2014 “Lead-Free” Requirements May Cost You

The Reduction of Lead in Drinking Water Act (effective January 4, 2014) imposes a stricter “lead-free” mandate across the United States. The Act makes it illegal to sell or install pipes, fittings, valves, and fixtures in applications providing water for human consumption which exceeds the 0.25% weighted average limit for wetted surfaces, as opposed to the 8% weighted average previously permissible. Wetted parts are essentially any product that conveys water anticipated for human consumption (meters, expansion tanks, backflow preventers, flexible connectors, strainers, assorted gauges, fittings, and valves, etc.). The Act, however, contains certain exemptions and does not require the replacement of existing installation.

The Act, although supported by some, has significant implications for manufacturers, retailers, contractors, designers, municipalities and consumers. Primarily, the new lead-free materials



Karin Corbett

come at an increased price that will be passed on to consumers or eaten by contractors that already bid projects without knowledge of the cost increase. Many enter 2014 with obsolete inventory while suppliers have low inventory as manufacturers design and test new compliant materials.

The Act raises concerns about liability and compliance. The Act does not address enforcement or compliance certification, which are yet to be addressed by EPA issued regulations. Installers and suppliers may face liability for new sub-standard products or for installation of non-compliant non-potable service that is later repurposed for human consumption needs if the repurposed use was “anticipated”. The Act may also affect construction claims as owners may be challenged for awarding contracts quoting the wrong material and contractors may face increased damages claims for delay damages where the delay pushed the plumbing work into January, 2014.

Certainly, the Act raises uncertainty and questions. Be sure you understand the implications of the Act so that “Lead-Free” won’t cost your business.

For more information, contact Karin Corbett at 610.941.2530 or by email to kcorbett@kaplaw.com.



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Unless otherwise expressly stated herein, all discussions and opinions are based upon the law of the Commonwealth of Pennsylvania and the State of New Jersey. **Your comments or suggestions are welcome... Phone: 610.260.6000 • Fax: 610.260.1240 • www.kaplaw.com**

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