

# Cohen and Burnett, PC

## Legacy Analytics, LLC

Autumn 2006

### Estate and Financial Planning Update



#### Founding Partner

I. Mark Cohen  
JD, LL.M. & CFP™

Oh, how I love the Fall in Virginia! Sunny days, cool nights, and a riot of color everywhere you look.

The kids are back in school. Michael is a senior at TJ and is narrowing down his choices for college. Both UVA and William and Mary are still on the list, as well as Brandies, NYU, Wash U in St. Louis, and a couple of the Ivy's.

Rachel is a junior at Marshall, doing the full IB program, band, and preparing for the SAT.

They both are drivers now, and both parents have a few more gray hairs.

Kathy is tutoring a student in French, and working on a romance novel.

I am continuing to publish in the field of trusts and estates. The BNA Portfolio on the Uniform Trust Code (UTC) is due to be published in January. I also wrote an article on the UTC for the National Academy of Elder Law Attorneys Law Journal due out in November, and one for the Virginia Bar Journal due out the same time.

Wes, his son, David, and I rode in the Seagull Century (100 mile) bike ride this past Saturday. The route was from Salisbury, MD to Assateague Island and back. It was cold, wet, and windy but we all made it without harm. It was the first time for both Wes and me to go that distance in a day.

[Continued on page 2](#)

### Pension Protection Act (PPA) of 2006

#### Two Key Provisions

The recently enacted Pension Protection Act is over 900 pages long and contains many new rules relating to pensions and charities. Two of these rules are of great interest to us.

**Inherited IRAs.** Before the PPA, a spouse who was the beneficiary of a decedent's qualified plan (such as a 401(k) profit sharing plan) could do one of the following: (i) leave the funds in the plan; (ii) roll the benefits into his or her own IRA; or (iii) roll the benefits into an "inherited IRA" in the decedent's name and remain the beneficiary. All three of these options allow the spouse to defer income taxes by stretching out the distributions from the IRA or qualified plan over his or her lifetime.

Any other (non-spouse) beneficiary, however, was not able to roll over the amounts into an "inherited IRA" and therefore was typically stuck paying the full income tax within five years from the participant's death.

The PPA fixed this problem by allowing *any* beneficiary to roll over the entire balance into an "inherited IRA" where the minimum required distributions can be stretched over the life expectancy of the designated beneficiary. There are, of course, requirements:

- (i) The IRA must be "inherited," that is - in the deceased participant's name;
- (ii) The transfer must be a trustee-to-trustee transfer; and

**Continued on page 2**

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Continued from Page 1

You have seen me describe triathlons, climbing Mt. Rainier, and century bike rides. Wes and I are trying to decide what to do next and are open to suggestions. Please share your thoughts with us and if we really like your idea, we will invite you to join us on our next adventure.



### **Managing Partner**

Weston D. Burnett  
JD, LLM & CFP™

We have hired a new highly qualified financial planner, Christine Choi, after Catherine Chang left for an institutional mutual fund firm to do analytical work on mutual funds.

Our son Edward and his high school sweetheart and fiancé, Pranee Gill who is at Columbia's MBA program, have set their wedding for Changugar, India in late December 2007 and I understand there may be up to 1000 wedding guests. There will be a smaller ceremony and reception six months later here. David accepted a position next year after UVA Law School with a law firm which specializes in corporate litigation. Jennifer is deep into PhD applications as she completes her Masters at JMU.

My wife and I will have closed on our new home on October 13, 2006 one mile away from our current residence both in Falls Church. Now that we are empty nesters, we do not need a large yard or a swimming pool and Barb wanted a new house with high ceiling and large windows to let the light shine in. Our neighbors on both sides are 30 year olds with small children so we have much to look forward to.

Mark and I rode in the Seacoast Century on October 7, 2006 and had a ball. I got to draft behind my son, David.

Continued from page 1

- (iii) The designated beneficiary must be the beneficiary under the IRA.

What if the 401(k) designated a trust as the beneficiary? The PPA allows a roll-over to an inherited IRA with the trust as a beneficiary.

**Tax-Free Transfers From IRAs to Charities.** After years of proposals have failed, the new law finally allows for tax-free transfers from IRAs to charities. For a limited time (2006 and 2007) up to \$100,000 can be contributed directly to charity each year. This contribution will count as part (or all) of the minimum required distribution. Here are the requirements:

- (i) The IRA owner must be at least age 70½;
- (ii) The distribution must be one that would otherwise have been includible in gross income;
- (iii) The distribution must qualify for a charitable deduction (including being within the AGI limits); and
- (iv) The distribution cannot be counted in AGI for purposes of determining the AGI limit for charitable contributions.

What if you have non-deductible contributions (basis) in your IRA? The transfer to charity will only come out of the deductible portion, leaving the nondeductible portion untouched.

## **A New Friend and Face**

Legacy Analytics, LLC and Cohen and Burnett, P.C. welcome to the staff a new key person:



**Christine Choi, MBA, CPA, CFP™**

**Bachelor of Arts in History**  
Ewha Women's University  
Seoul, Korea

**MS Business Administration, (1990)**  
California State University  
Los Angeles, CA  
Phi Kappa Phi Honor Society.

## 529 Plans

The pension bill affects a wide range of 529-plan features that were scheduled to “sunset,” or expire, at the end of 2010. In addition to preserving tax-free account distributions- the most important issue facing many families- it allows investors to continue to roll over their 529s to a different state plan once a year without requiring a change in beneficiary. The legislation also extends the option to invest in both a 529 plan and a separate Coverdell Education Savings Account for the same beneficiary in the same year.

State officials, as well as the fund companies that run 529 plans, hope the permanency of the enhancements will help reignite 529 investments, which had been showing signs of slowing down.

As of March 31, 2006 investors had opened a total of 8.6 million 529 accounts with nearly \$90 billion in assets, according to the College Savings Plans Network, a Lexington, Ky., organization of state 529 officials. Assets in the plans rose sharply when the Economic Growth and Tax Relief Reconciliation Act of 2001 made 529 distributions completely tax-free when used for college expenses, among other provisions. But the law was set to expire on Dec. 31, 2010, at which time the plans would revert to the less-generous rules laid out in Section 529 of the Internal Revenue Code – and that diminished their appeal among some investors.

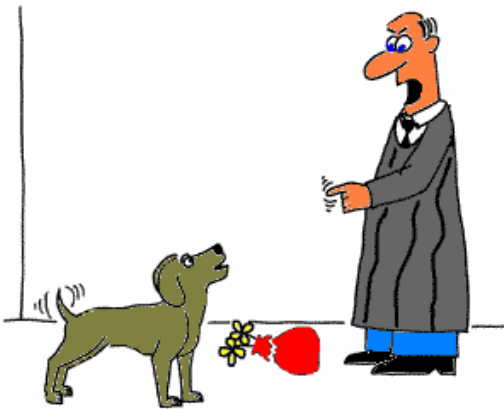
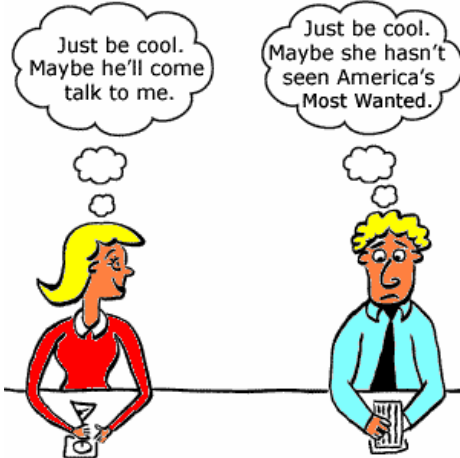
In a 529 plan, investors deposit after-tax income into an account that typically carries a range of investment options, usually mutual funds. Distributions are tax-free, so long as the money is used to pay for higher-education expenses.

Generally, each state runs its own 529 program, and many offer additional state-tax benefits to residents who choose to invest in their own state 529 plans. Though investors can set up their 529 accounts directly with any state they choose, some 80% of 529 assets are bought through broker or financial advisor. (Some states also offer 529 “prepaid” plans, in which families can lock in current tuition rates.)

## One of the Best Kept Secrets

One of the worst things that can happen to firms like Legacy Analytics, LLC or Cohen & Burnett, PC is that none of our clients tell their friends about us and we are kept as a secret.

So if you are happy with us, let’s break this cycle of silence and let everyone you know, know about us. ☺



Alleged BAD dog! Alleged BAD dog!



"I hate terrorism, but it sure is keeping the FBI off my back."

## Words to Live By

Not everything that can be counted counts and not everything that counts can be counted.

- Albert Einstein

Persistence is the twin sister of excellence. One is a matter of quality; the other, a matter of time.

- Marabel Morgan

Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence

-John Quincy Adams

I find that the harder I work the more luck I seem to have.

- Thomas Jefferson

Some people see things that are and ask, "Why?" Some people dream of things that never were and ask, "Why not?" Some people have to go to work and don't have time for all that ...

-George Carlin

A true friend is someone who thinks that you are a good egg even though he knows that you are slightly cracked.

- Bernard Meltzer

If we would build on a sure foundation in friendship, we must love friends for their sake rather than for our own.

-Charlotte Bronte

An 800 Line Production



## Strong Medicine

Later this year, older adults with higher incomes will get unwelcome news from Uncle Sam: They'll have to pay a bigger share of their Medicare costs, starting in January.

Under the new means test, enacted as part of the 2003 Medicare prescription-drug act, about 1.5 million seniors will be required to pay higher premiums for Part B, which covers doctors' visits and outpatient care. The change, to be phased in over three years, will affect single beneficiaries with incomes greater than \$80,000 and couples with incomes greater than \$160,000. The premiums will be calculated on a sliding scale, based on adjusted gross income.

Currently, monthly premiums are set at a level equal to 25% of the estimated spending by Part B in any given year. The other 75% is paid for by the government - in effect, taxpayers. Under the means-testing provision, the government subsidy for higher-income beneficiaries will be reduced. For the wealthiest individuals, for example, the government subsidy will decline to 20% from 75%.

The result: Seniors with higher incomes will see a rise in what they have to pay for the Part B coverage, on top of the regular premium increases that occur most years to help cover the program's steadily rising costs. Means testing won't apply to the separate Part D premiums charged for prescription-drug coverage.

For 2006, the Part B premium is \$88.50 a month; that number is expected to rise to at least \$98.20 next year, reflecting increasing costs. That's what individuals with incomes of less than \$80,000 will pay. But seniors with incomes of \$80,000 to \$100,000 will pay an estimated \$111.20 a month; those with incomes of \$100,000 to \$150,000 will pay \$130.70; and those with incomes above \$200,000 will pay \$169.50, according to estimates by the Centers for Medicare and Medicaid Services, which runs Medicare.

By 2009, when means testing is fully phased in, beneficiaries with incomes above \$200,000 are expected to pay an estimated \$314.60 a month, more than three times the premium for those with incomes of less than \$80,000. The income thresholds will be adjusted for inflation.