

COHEN & BURNETT, PC

AND LEGACY ANALYTICS, LLC

Meet Our Staffs

Founding Partner

I. Mark Cohen,
JD, LLM, & CFP™

*Noted Expert in Estate and
Business Planning,
Masters in Tax Law, and
Certified Financial Planner*

Managing Partner

Weston D. Burnett,
JD, LLM, JAG

*Expert in Estate, Business
and Tax Planning,
Masters in International &
Comparative Law.
Admitted in VA, DC, MD.*

Paralegal

Linda Reyman

Accounting

Diane Tobin

Receptionist/ Paralegal Assistant

Chelsea Aebi

► New ◀ Legacy Analytics Staff

We are truly excited to welcome two smart, hardworking new staff members to our team at Legacy Analytics. **Wendy Cheung** joined us on May 12 as our administrative assistant. **Brian Pasley**, our new financial analyst, will join us in September 15, after completing his MS in Finance at George Washington University.

THE MULTI-DISCIPLINARY PRACTICE

Recently, Mark Cohen and Weston Burnett had a chance to demonstrate the true value of the multidisciplinary practice to a client. The client was interested in passing a family home to his children with about \$100,000 in seed money to fund the company expenses and with safeguards against creditors, in-laws or immature grandchildren. The client also wanted to create a new family limited liability company (LLC). Knowing of these issues in advance, we were able to prepare for the following topics which the client wanted to discuss: (1) necessary changes to make to the Trust and Will; (2) a taxpayer ID number for the new family LLC; (3) an operating agreement for the family LLC that limited membership to the client's descendants and maintained the client's control over its operations even if the client gifted 99% of the membership to his descendants; (4) a deed titling the family real estate in the LLC; (5) an analysis of the gift tax treatments of gifting membership shares in the family LLC to the client's children; (6) the cost basis of the securities the client had available to sell to generate the \$100,000 fund (some securities the client had owned for a long time and some securities were in his deceased spouse's estate); (7) an analysis of his stocks and which ones to sell to fund the family LLC; (8) the capital gains tax consequences of any sales; (9) any estimated tax payments due as a result; and (10) how the portfolio had done over the last six months.

As a multidisciplinary firm, we had all of the files and all of the answers to the client's questions right here, so our time was spent finding the answers and preparing the documents. In the more traditional situation, the client would have had to enlist the services of each, his CPA, financial planner and attorney, hoping that these professionals could, working from separate vantage points, achieve the client's ultimate estate planning/financial planning goals. The CPA would work on the cost basis of stocks of the client's deceased spouse's estate tax return; how much a carryover loss the client had, if any, from prior years to offset any capital gains on new sales; the estimated tax consequences of any capital gains; the taxpayer ID for the new family LLC; and the estimated tax payments to be made. The client's attorney would generate the documents to create the family LLC, and title the deed into the family LLC. The financial planner would review the stock portfolio to pick winners and losers. The time, expense and delays of all of those professionals in different offices working on each piece of the puzzle and calling the client and each other to pull it all together was avoided. The client met with one person who had studied all of the information and had a thorough understanding of all of the moving parts so the plan was cohesive. That represents the type of comprehensive service we aspire to deliver every time for every financial planning client of ours.

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Bond Values Down

The long awaited up turn in interest rates started in late June. Since then, interest rates on mortgages are up over 1% and the drop off in mortgage refinancing has been considerable, even though mortgage rates are still low compared to historic levels for the past 30 years. Contemporaneously, interest rates on Treasury notes and bonds have climbed. When those interest rates rise, the bond values decline and so anyone with a bond portfolio may notice their decline in market value since late June. For obvious reasons, if the interest rates continue to rise, the bond values will go down. If you want to discuss strategies for dealing with this, especially with the possibility of further increases in interest rates in the future, please make an appointment to meet with Mark Cohen or Wes Burnett.

Great Quotes

"The illegal we do immediately; the unconstitutional takes a little longer."

Henry Kissinger

Things to Ponder

If all those psychics know the winning lottery numbers, why are they all still working?

JOB GROWTH & RECONCILIATION ACT OF 2003

The Jobs and Growth Tax Reconciliation Act of 2003 was approved by the US House of Representatives early in the morning of May 23, 2003 by a vote of 231 in favor to 200 opposed. Later that same day the US Senate also passed the Act by a vote of 51 in favor to 50 opposed with Vice President Cheney casting the tie breaking vote.

The following is a summary of the tax law changes in Income Tax Benefits and Capital Gains Benefits created by the Jobs and Growth Tax Reconciliation Act of 2003:
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Income Tax Benefits:

- ◆ The basic standard deduction is increased for married filers who file jointly to double the size of the standard deduction for a single filer. As of January 1, 2005, the standard deduction ties back into the Economic Growth and Taxpayer Relief Reconciliation Act of 2001 (the standard deduction for married joint filers is 174% of a single filers' standard deduction);
- ◆ The 10% income tax bracket is expanded for the years 2003 and 2004. The bracket is increased by \$1,000 for single filers as well as married filers who file their returns separately to \$7,000, and by \$2,000 for married filers who file jointly to \$14,000. As of 2004, the 10% income tax bracket will be indexed for inflation;
- ◆ The 15% income tax bracket for married joint filers is increased to double the size of a single filers' 15% bracket. As of January 1, 2005, the 15% bracket ties back into the Economic Growth and Taxpayer Relief Reconciliation Act of 2001 (the 15% bracket for married joint filers is 180% of the 15% bracket for a single filer);
- ◆ The individual income tax brackets above 15% are reduced on an accelerated rate so that for years starting January 1, 2003, and thereafter the rates above 15% are 25% (instead of 27%), 28% (instead of 30%), 33% (instead of 35%), and 35% (instead of 38.6%);
- ◆ Starting January 1, 2003 through 2004, the child credit is increased from \$600 to \$1,000, dropping back to \$700 per qualifying child in 2005. This increase will result in most taxpayers who utilize the credit receiving a refund in July or August of 2003 in the amount of \$400/qualifying child; and
- ◆ The alternative minimum tax (AMT) exemption is increased for years 2003 and 2004 for married joint filers from \$45,000 to \$58,000, for single filers from \$33,750 to \$40,250, and for married filers who file separately from \$22,500 to \$29,000.

Capital Gains Benefits:

- ◆ For assets held more than one year, the 10% rate on adjusted net capital gain is reduced to 5%, and the 20% rate on adjusted net capital gain is reduced to 15%, for both regular and AMT tax for sales made, exchanges made and payments received after May 5, 2003 and before January 1, 2009. The 5% rate is reduced to zero percent in 2008; and
- ◆ Dividends received by an individual shareholder or a domestic corporation are treated as net capital gain for purposes of applying the capital gain tax rates for dividends received on or and before after January 1, 2003. The rates for the years 2003 through 2008 are 5% and 15%, with the 5% rate going to zero percent in 2008.

** Note: Business Tax Breaks from this Act will be addressed in a future Newsletter.

D.C. ESTATE TAX

In our spring 2003 Newsletter, we advised that the decision by the District of Columbia to go their own way on the estate tax and no longer follow the Federal estate tax rules meant that our clients should review their trust(s) with us to ensure they would still work with the new tax regime. Most importantly the exemption amount is now different with \$675,000 for the D.C. estate tax and \$1,000,000 for the Federal estate tax.

Anyone who is a District of Columbia resident with, especially, a bypass or family credit shelter trust (typically most married couples) drafted by this firm should make an appointment to review their trusts under the changed estate tax exemptions. Your documents will no longer work as originally designed and there is the potential for unintended results that you may not like. We encourage you to call and make an appointment to discuss the new statutes and their effect on your plan. Of note, before coming in for an appointment, you should carefully compile a list of all of your assets together, with their fair market value, so that we can properly evaluate the potential estate tax liability, if any.

VIRGINIA ENACTS UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

Before explaining the new Virginia law, you must first understand that a disclaimer is a beneficiary declining a gift under a will or trust. A properly executed disclaimer results in the disclaimed property passing to whoever was listed as next in line in the Trust or Will. The most common example is a surviving spouse who is independently wealthy and does not need the benefits from the first spouse-to-die's trust. The surviving spouse's disclaimer of all or any portion of the estate of the first spouse to die results in its passing to the next in line without its going through the surviving spouse's estate.

Effective July 1, 2003, Virginia now has the "Uniform Disclaimer of Property Interests Act." It creates rules for several types of disclaimers that were not previously addressed in the law. For those of you who had your trust(s) written in the early 1990's, you may have a disclaimer funded family credit shelter trust, which we stopped using many years ago for most clients due to changes in the Internal Revenue Code provisions on disclaimers. We recommend, generally, revision of most disclaimer funded trusts under the current provision of the Internal Revenue Code and the Uniform Disclaimer of Property Interests Act for Virginia.

Great Quotes

"A young attorney was attending a funeral. A friend arrived late and seated himself, whispering, "At what stage of the service are they?"

The attorney, pointing to the minister, whispered back, "He's just opening for the defense."

Status of the Estate Tax

The House of Representatives continues to pass, by an overwhelming majority, a permanent repeal of the Federal estate tax and the Senate continues to favor repeal with a 51 to 48 vote, which does not meet the 60-vote margin that is required. We have a stalemate in Congress.

Good News: On January 1, 2004, the Federal estate-tax exemption will increase from \$1,000,000 to \$1,500,000 per person.

Interesting Argument: A recent Federal court decision involved Earl and Mildred, married farmers from a small rural area in Minnesota. Earl's schooling ended at eighth grade and Mildred at high school. Mildred passed away first, leaving an estate of over \$1M to Earl. Earl passed away eight years later, and his executor attacked the Federal estate tax as unconstitutional because it discriminated against people like Earl and Mildred who were not well educated, i.e., they did not know to do a bypass Trust. The Court disagreed and the tax was paid.

Things to Ponder

"If a pig loses its voice, is it disgruntled?"

IRS UPDATE ON TAX SCAMS

As promised in previous issues, here are some more of the top 12 tax scams on which the IRS focuses:

◆ Claims That African-Americans Get A Special "Slavery Reparation":

The scammer - for a fee - offers to apply, on behalf of the taxpayer, for tax credits or refunds related to reparations for slavery. But there is no such provision in the tax law and a number of promoters of reparations tax schemes have already been convicted and imprisoned. Taxpayers who file such claims face a \$500 penalty if they do not withdraw the claim.

◆ No Taxes Withheld From Wages:

Employers are told they do not have to withhold federal income tax or employment taxes from wages paid to their employees. These schemes are based on an incorrect interpretation of tax law and have been refuted in numerous recent court holdings. Taxpayers who have concerns about their employer and employment taxes can call the IRS at 1-800-829-1040.

◆ Improper Home-Based Business:

Promoters claim that individual taxpayers can deduct most, or all, of their personal expenses as business expenses by setting up a bogus home-based business. But in reality, this "tax relief" is illegal tax avoidance. A clear business purpose and profit motive must exist in order to generate and properly claim allowable business expenses.

Great Courtroom Moments

"Your Honor," said the jury foreman solemnly, "we find that the man who stole the \$20,000 is not guilty."

NEW ON-LINE EIN PROCEDURES

Any individual who needs to obtain a new tax ID number no longer has to write or fax the IRS and wait weeks for a response, or call the IRS and spend a half hour on hold. They can now use the IRS Web site to obtain the number on line by accessing <http://www.irs.gov/pub/irs-fill/fss4.pdf>. You have to have Adobe Acrobat Reader to complete an SS-4 form on-line. If you fill in the form incorrectly, it highlights in red what requires correction (such as you cannot use periods or commas in the typewritten text). We now use this for obtaining new tax ID numbers for estates and trusts when we assist executors / executrixes/trustees with an estate administration.

PROBATE INFORMATION ON THE INTERNET

Concerns over the type of information being posted on probate clerk's offices about decedent's estates may have been one of the motivating forces for a recently enacted Virginia statute. It limits information that can be posted on court-controlled web sites, e.g., a probate clerk's office. The documents posted may not include actual signatures, social security numbers, dates of birth for a particular person, financial accounts, or the name or age of a minor child. Please note that our revocable living trusts for our clients are specifically designed (when properly funded) to avoid entirely the probate process (and therefore anything being posted on the web). The new Virginia statute expires on July 1, 2005.

E-MAIL ALERTS

For those of our clients who wish to be kept advised electronically of changes or suggestions to estate, tax, and financial planning, send your email address to Wes@cohenandburnett.com. If there is sufficient interest, Wes Burnett will periodically send you the most current information on estate, tax, and financial planning. There is no charge for this email service, no obligation by your requesting the email, and we will never share our clients' email addresses with any outside companies or vendors.

OUR NEWSLETTER

We have expanded our mailing of this newsletter at no charge to over 1800 of our clients in an attempt to keep them informed of changes in estate, tax and financial planning. Generally, the topics we write about are changes in the law and issues or problems experienced recently by clients. We appreciate any feedback you may have on this newsletter. You may also consult our website at www.cohenandburnett.com.

In an effort to ensure that our estate-, tax- and financial-planning service to you is high quality and focused, we no longer mass market for new clients. We hope that you will keep us in mind should any one ever ask you for a referral for estate, tax or financial planning.