

Cohen and Burnett, PC Legacy Analytics, LLC

Summer 2006

Estate and Financial Planning Update



Founding Partner

I. Mark Cohen
JD, LL.M. & CFP™

Mt. Rainier was an experience. Jeff Dunham, Wes and I joined a group of about 30 climbers and guides for a 2-day assault on the summit. We all made it to Camp Muir, at 10,000 feet, where Wes and I stayed over night. Jeff joined the rest of the crew which departed Camp Muir at 1:00 am and made it to the summit at 14,400 feet. We all made it back to the buses later that afternoon, safe, sound, and exhausted.

Kathy is taking a break from teaching for the summer and taking a course in writing a novel. She has a couple of chapters written and is loving it.

Michael is working here at the office this summer helping us digitize all our old files. He is now a rising senior at Thomas Jefferson High School and is seriously looking at colleges. Rachel is continuing to work at Baskin and Robbins, but is attending the Institute for the Arts summer program, and learning how to drive. She is now a rising junior at Marshall High School and is taking the full IB program. I finished the second draft of my book on the Uniform Trust Code, and BNA is expecting to have it published in the winter of 2007. I would like to wish all my friends a happy, safe and relaxing summer.

Risks and Protecting yourself and your assets

Many financial advisors focus on management of existing investment risks in the stock market, mutual funds and bonds. The Legacy Analytics financial planning process defines risk more broadly to include, for example, risks of high medical or long term care bills, property risks such as hurricanes, personal liability risks such as auto accidents, and business risks. While Mark Cohen and Wes Burnett do not sell insurance policies, they are licensed for life and health insurance so that they can properly evaluate your needs and recommend a course of action. If you are concerned about one or more of your answers to the questions below, you should make an appointment with Mark or Wes to sit down and discuss a Legacy Analytics financial analysis.

- 1 Did you know that if you are in an auto accident and the damages you are held responsible for exceed the liability coverage that the plaintiff may pursue your other property and investments to satisfy your liability? Are you confident that you have sufficient liability coverage for you in the case of an auto accident?
- 2 If you do not have long-term-care insurance, are you prepared to self-insure (pay the bills yourself), if you end up needing daily or frequent care in your home.
- 3 Is your residence or vacation home at the beach covered in case of a flood or hurricane?
- 4 Do you have umbrella insurance that increases your liability to at least \$1-2,000,000 on top of our homeowner's and auto insurance?

Continued On Page 3

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Managing Partner

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The firm continues to grow and prosper. Tax season was the most challenging to date as we found many more clients affected by AMT. Also, our many clients in Dunham experienced exceptional returns, ***“Past performance is not a guarantee of future returns.”***, in 2005 which lead to increased taxes with their increased investment income.

On the home front, my wife, Barbara, once again went to the White House in May to meet with President Bush for the second time since 2001 to be recognized as the Coach of the four Virginia middle schoolers that won the National Mathcounts Championship. She has been busy in her free time visiting our new home due for completion this fall in a 100 townhouse/single family development that is within a few miles of our current home, where she gets the large windows and higher ceilings she always wanted and I no longer have to maintain a yard and a swimming pool (no kids at home to use).

My son David has worked in NYC and LA this summer with a Wall Street firm on corporate litigation and is ready now for his final year at UVA Law School. My son, LTJG Edward Burnett, starts training this next quarter as the ship's navigator just in time for the ship's deployment for roughly 60 days to the British Isles and Northern Europe. Our daughter, Jennifer, continues to teach and learn as a graduate assistant at JMU and is starting her applications to PHD programs in Clinical Psychology.

Mark and I hiked Mt Rainier in June for three days on the snow and ice and alternated between freezing snow and rain, harsh sunshine and sweating from the heavy packs. We stopped at Muir Camp and did not make the final ascent. We had a delightful time. Interesting lesson learned: Apply the sunblock to the inside of the ear if you want to avoid sunburn from the reflecting snow and ice. Our next expedition is a 100 mile bike ride at sea level in the Seacoast Century.

Top Ten Ways for Your Estate Plan to Go Awry

In the lessons learned category, here are the top ten reasons that we have found that one or more of our client's estate plans did not work as they intended:

1. The clients signed all of their estate planning documents and left with their funding instruction letter advising them on how to title their assets in the name of one or both trusts. They left everything still jointly titled as husband and wife. Now one spouse has died and there are no assets to fund the family credit shelter trust to minimize estate taxes.
2. The clients failed to title their out-of-state real estate in the name of their trust and, upon death, an ancillary probate administration in the other state had to be conducted for that real estate.
3. The clients titled all of their assets in the name of their trust except they received a stock distribution from the demutualization of their insurance policy in the early 1990's and they left the stock in one spouse's name alone never paying much attention to the stock or the dividends. Upon death, the surviving spouse has to go through probate for that one stock.
4. One spouse died years ago with assets titled in the deceased spouse's trust and the surviving spouse never filed a 1041 trust income tax return. Instead, the surviving spouse listed all income from the deceased spouse's trust on the surviving spouse's 1040. Years later, we find out and advise that failure to file the 1041 means that the IRS will treat the deceased spouse's assets as part of the surviving spouse's estate, which will result in a large estate tax bill on the death of the surviving spouse that could have been avoided. To remedy the problem we then prepare 1041's for every year from the date of death of the first spouse.

Continued on page 4

New Friends and Faces

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

Receptionist

Law Clerk

Melissa Gardner

Lynda O. Keita

More of Murphy's Laws

Murphy's First Law: Nothing is as easy as it looks.

Murphy's Second Law: Everything takes longer than you think.

Murphy's Third Law: In any field of endeavor, anything that can go wrong will go wrong.

Murphy's Fourth Law: If there is a possibility that several things can go wrong, then the one that will cause the greatest damage will be the one to go wrong.

Murphy's Fifth Law: If anything absolutely can NOT go wrong, it will anyway.

Murphy's Sixth Law: If you perceive that there are four possible ways in which a procedure can go wrong and circumvent these, then a fifth way, unprepared for, will promptly develop.

Murphy's Seventh Law: Left to themselves, things tend to go from bad to worse.

Murphy's Eighth Law: If everything seems to be going well, you have obviously overlooked something.

Murphy's Ninth Law: Nature always sides with the hidden flaw.

Murphy's Tenth Law: Mother Nature is a son-of-a-gun.

Murphy's Eleventh Law: It is impossible to make anything foolproof, because fools are so very ingenious.

Murphy's Twelfth Law: Things get worse under pressure

Murphy's Thirteenth Law: To study a subject best, understand it thoroughly before you start.

Murphy's Fourteenth Law: If an experiment works, something has gone wrong.

Murphy's Fifteenth Law: If mathematically you end up with the incorrect answer, try multiplying by the page number.

Murphy's Sixteenth Law: When in danger or in doubt, run in circles, scream and shout!

Tax Increase Prevention and Reconciliation Act of 2005

The Tax Increase Prevention and Reconciliation Act of 2005 enacted late last year had three major provisions in it. First, the Kiddie tax on unearned income of dependent children up to age 14 has been adjusted upward to age 18. That means that any child up to age 18 now with unearned income over \$1,700 will have the excess of income over \$1,700 taxed at the parent's rate up to age 18 (vice age 14 under prior law). Second, for IRAs, under current law, anyone whose adjusted gross income was more than \$100,000 was barred from converting their traditional IRA to a Roth IRA. The income limitation is repealed effective in 2010. Why did they pick that year you ask? When traditional IRA holders convert to ROTH IRA, they have to pay taxes up front so the government gets the money immediately. The government needed a revenue generator in 2010 hence their selection of that date. Third, the new law raises the AMT exemption for 2006 only. That band aid fix is good for one year only. There are also some other provisions in the law such as an extension of the current 15% long-term-capital-gains-rate from 2008 to 2010. Further, individuals with income in the lowest two brackets 10% and 15% will continue to be taxed at 5% on their long term capital gains through 2007 and at zero beginning in 2008.

Risks and Protecting...continued from page 1

- 5 Do you serve as a volunteer with a charitable organization such as boy scouts, your church or the Little League? Do they have personal director liability insurance for you, if you a serve on the board or are in a leadership position, in case someone sues the organization?
- 6 Do you have your own business or are you doing consulting work? Have you set up no separate legal entity, such as a limited liability company, to serve as the owner of this business? Do you have business insurance or employment practice liability insurance to protect you from, for example, employee theft, an employee law suit, or an auto accident while working?
- 7 Do you have life insurance policies with cash surrender values that you bought when you were young to protect your spouse and children should you die, that you no longer need? Do you want to find the best way to convert those to cash or other investments in a tax efficient manner?
- 8 Are you in a high risk profession, such as a physician, where you wish to protect you residence and personal savings from a medical malpractice law suit? You have heard about asset protection trusts, but wish to know more.

These are the risks that we observe most frequently in advising our clients as lawyers and financial planners. There are others. Please call and make an appointment if you wish to explore these matters further.

Murphy's Original law stated:

**"Whatever can go wrong
will go wrong!"**

The IRS Gets Harsher?

IRS Seeks Harsher Discipline

In an effort to crack down on tax preparers that are uninformed, incompetent or peddling fraudulent tax shelters, the IRS has proposed new rules that would beef up their enforcement against such tax professionals.

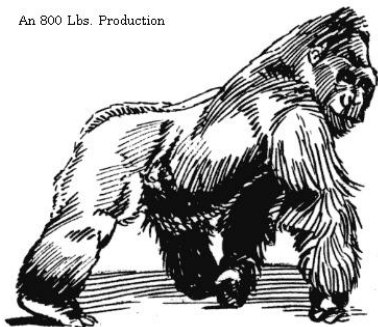
We welcome the changes.

Examples of the changes include:

(1) The rules would narrow when tax professionals can work on a contingency basis, where the client only pays the tax professional if the tax professional wins the case. We work on a fixed fee or time-and-expense basis for tax matters.

(2) They will adopt civil proceedings for professional that run afoul of the rules. We hope that such proceedings will be publicized so that other tax professionals may learn from other's mistakes.

An 800 Lbs. Production



Top Ten ways... Continued from page 2

- 5 The clients have not updated their Durable Medical Power of Attorney to take into account the privacy requirements of the Health Insurance Portability and Accountability Act (HIPAA).
- 6 The client's assets have grown or shrunk in value since they signed their estate planning documents. The federal estate tax exemption amount has increased from \$600,000 in the 1990's, when their documents were signed, to \$2,000,000 in 2006 (as a result of the 2001 law). Now, the estate planning documents may be more or less complicated that they need to be due to the changes in the law and the changes in their assets.
- 7 The clients have some old savings bonds that they have had in the bottom of a drawer or safety deposit box for a long time and one or both die and the only names on the bonds are the deceased. The bonds have to go through probate.
- 8 The clients named in their estate planning documents as fiduciaries (trustee, executor, medical agent, attorney-in-fact) a relative who is deceased or estranged or a bank whose name has changed through acquisition or merger. A simple update would have remedied this gap.
- 9 The client has talked for years about updating or reviewing the estate planning documents but is only spurred into action when the doctor says they have to go in for open heart surgery or they receive a bad prognosis from a recent medical examination.
- 10 A client passes away and we discover that there is still an asset such as a bank account left over from a probate and estate administration going back years or even decades. The problem may be complicated by many years of neglect, multiple state jurisdictions and long lost paperwork. If you have been an executor for an estate, which generally concluded years ago but you have left one estate account for contingencies; our recommendation is that you study carefully the continuing need for the estate account.

You have the ability to avoid every one of these problems. Please make an appointment to see Mark or Wes if you are concerned about any of these problems.