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LAW OFFICES

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THE LEGAL BULLETIN

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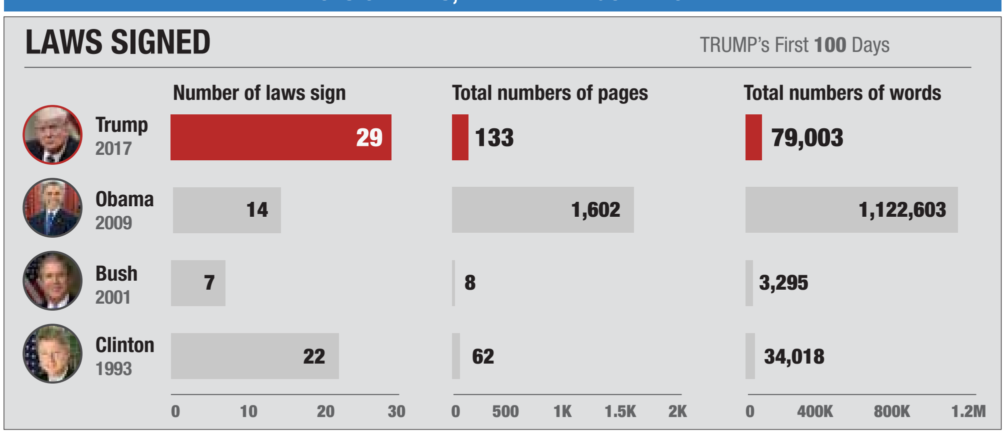
All's Quiet On The Western Front

Investigations into the President's campaign. Brexit's ugly implementation. Health Care repeal(s) / reform(s) / regurgitation(s). Still waiting on the new season of Game of Thrones. Talk, talk, talk. All of the drama, so much anxiety and anticipation. And then the realization slowly sets in: Nothing is happening.

Well, at least in the world of Estate Planning. My last newsletter predicted 2017 would be the most consequential year for Trusts & Estates in my professional lifetime. Thankfully I did not go to Atlantic City and bet your life savings on red, because the estate planning world has been hitting black again and again and again. I recently had an opportunity to speak on a well-known cable news network about the Top 10 Reasons why people should rush to change their estate plans…and chose to go to the gym instead, since I had nothing, not one thing, to share. There are supposedly a bunch of laws that have been passed, but what do they even mean?

LOTS OF LAWS, VERY LITTLE GUIDANCE



Big Issue	What Will Change?	Big Issue	What Will Change?
Medicare Premiums	Who knows?	Income Taxes	No one ever knows; seems to only go up
Medicaid	Who knows?	Health Care	The Name (bye bye "Obamacare") What else? Who knows?
Estate Taxes	Nothing…but who knows?		

While I am aware of the irony and cynicism contained within the name of the novel "All's Quiet on the Western Front", the parallels are stunningly similar: Despite our Congressmen's yammering, the media's clamoring, and protesters' hammering, there seems to be no discernable changes, patterns, opportunities or threats unfolding in the estate planning world.

And This Is A Good Thing!

Unlike my first decade in practice, when estate tax exemptions changed annually after-the fact, new income taxes were created monthly without notice, and some court incredulously took away another one of your rights daily, we are now able to actually plan our finances for our advanced aging needs and subsequent wealth transference to loved ones or charities. Until now, Twenty First Century asset conveyance and preservation was characterized by panicked and unpredictable battles against the government's taxing authority, so it is a slight relief to have this opportunity to settle into static trench warfare and get our estate planning feet planted securely.

True, our environment is most likely doomed, though I suppose we will leave that issue for our children to deal with using the money we left them (instead of fixing it ourselves with that same money)…

21st Century Trend: First House Down Payment Now An Expectation Of Parenthood

Family handouts (and bailouts) have been around since the time of…families? The 21st Century's toxic cocktail of financial hardship (high education costs, underemployment, low wages and exorbitant real estate costs) have created a witches brew of problems for young people attempting to purchase their first home. Parents are now left with a choice: Risk their child focusing on growing some wealth in their basement bedroom instead of growing some grandchildren, or provide them with their first home down payment.

I was a financial planner in the late 1990's, and saw a similar shift with higher education. Parental assistance with college tuition went from a kindly gesture in 1990, to a societal expectation by 1999. A parental down payment will soon be viewed as a familial obligation: Your cousins and gossiping neighbors will soon expect you to help your child purchase his or her first home.

Before you take the bait and write out a check, take stock of your own finances, review your family values, and make sure to consider the following risks and how to address them:

Challenge	Solution
• Child Divorces • Child Loses Job • Uneven Distribution of Funds Between Children	• Prenuptial Agreements, Trusts, record keeping of Gift Tax returns • Set child expectations of a reasonably-sized mortgages • Make it known there will be a post-mortem equalization in your estate plan

Max Tax Deductible Contributions First, And Don't Convert To A Roth

Special thanks to Investopedia.com for publishing the original full article of this submission

I have no clue what future tax policy will look like.

When I was a full-time financial planner in the late 1990's we had software to illustrate the power of investing in a Roth IRA instead of a Traditional IRA, and would show people how converting their IRA to a Roth would provide stupendous wealth accumulation. Imagine being 25 years old, knowing you would never have to pay taxes on your Roth investments, and assuming you would make 20% a year for the next 60 years (hey, it was the 90's, so any investment return was possible, remember Pets.com and that silly sock puppet?). So I invested in a Roth instead of a tax-deductible IRA, and converted my old 401(k)s to Roths every time, paying taxes to Uncle Sam now so I could make that juicy, luscious tax free return in the future. I felt like I should be dating a movie star.

Here I am, almost 20 years later, and I finally realize my mistake:

Tax policy is unpredictable.

1. **"Absolute Present Benefits" of a Traditional IRA:** I receive an undeniable, unequivocal income tax deduction by investing in an IRA now, and defer all income taxes until a future gradual withdrawal.

2. **"Absolute Present Detriment" of Roth IRA Contribution / Conversion:** I must pay income taxes on every penny I convert or earn (remember, I have to have earned income to contribute to a Roth) before I contribute them to a Roth.

3. **"Uncertain Future Benefits" of a Roth:**

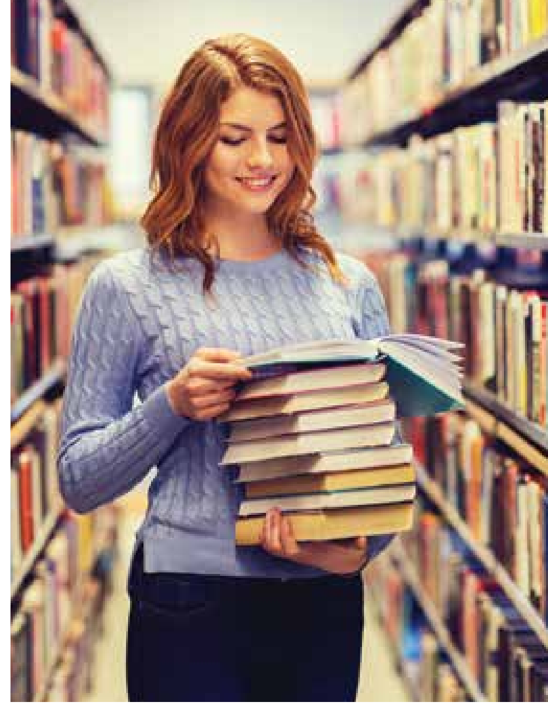
- My investment returns must outpace the taxes I paid up front to make it worth my risk.
- I must hope Roths have the same preferential treatment in the future that IRAs do for estate tax deductions and Medicaid benefits (currently they do not).
- I rely on tax policy not requiring future distributions from Roths, which must then be invested in taxable accounts (this was proposed by the Obama Administration).

I am NOT saying Roths are bad, but I am saying take the absolutely benefit of a traditional IRA income tax deduction prior to making any Roth contribution, and put off the Roth conversion until you weigh the uncertainty of tax and Medicaid policy changes.

New Yorkers Only:

Gift that 529 college savings plan donation to a New Yorker

New York allows an annual New York income tax deduction of up to $5,000 per person ($10,000 per couple) for funds being contributed to a New York beneficiary's higher education under a New York 529 Plan. New York is one of the few states to allow this deduction, so take advantage of it. Here are some suggestions to save on taxes and keep more money within your family's control.



Dan Says:

• **Are you retired and want to contribute to the 529 Plan?** Give the funds to a working New York family member who can take advantage of a greater income tax deduction and have them gift it to the New York 529 Plan.

• **Are you a New Yorker with a Non-New York 529 Plan?** Change over to a New York 529 Plan to start getting the deduction on new contributions.

• **Getting close to year end and have more than $5,000 to contribute?** Contribute $5,000 this year and some next year to spread the deductions, since you are limited to a $5,000 New York income tax deduction per contributor per year.

• **Do you live out of state but have a New York family member?** Gift the money to the New York family member, and have them contribute it to a New York 529 Plan with your choice of beneficiary *(make sure they don't change that beneficiary).*

Pay Charitable Contributions Directly From IRA RMDS

Special thanks to Dan Olson, CFA, CFP® for this tip!

Required Minimum Distributions ["RMDs"] from your Individual Retirement Account can be a drag if you don't need the income. Large IRA balances may make these distributions increase your income to the point where you need to pay income taxes on your Social Security payments, or increase your Medicare B premiums. So you figure "Maybe I'll take the RMD, and pay the difference to charity for a deduction."

Not so fast: Charitable deductions are only available to those people who itemize their deductions on their income tax returns. However, most people taking RMDs (I.e. over age of 70 ½) file using their standard deduction.

Better idea: Contact your financial institution and have them give your RMD directly to the charity. That way you can take the full deduction, as though you never received the taxable income in the first place (which is what you wanted in the first place). And your state income tax will decrease as well (note, most people don't itemize on their state tax returns, so this "deduction" benefit reduces state and city taxes). It's like magic, but with taxes, so it's even more awesome!

Dan's Recent Notable Publications

- ***February 23:*** INVESTOPEDIA.com publishes Dan's article on "Traditional or Roth IRA? One Has an Absolute Benefit"
- ***March 7:*** KIPLINGER.com publishes Dan's article on "5 Types of People You Should Gift to Using Your Will"
- ***March 23:*** YAHOO! FINANCE picks up Dan's article on "The Only 3 Reasons to Have an Irrevocable Trust"
- ***June 6:*** NASDAQ.com picks up Dan's article on "Why Your Estate Shouldn't Be Your IRA Beneficiary"

INVESTOPEDIA

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YAHOO! FINANCE

NASDAQ

What Has Dan Been Doing?

January 18: Dan presented Crisis Long Term Care Planning to financial planners at the Financial Planning Association of New York.

February 15: Dan spoke to the public at the New York Public Library's Science, Industry and Business Library about Basic Estate Planning.

February 22: Dan taught Continuing Legal Education to attorneys at the Brooklyn Bar Association's Volunteer Lawyer's Project regarding Will Drafting.

March 1: Dan spoke to former public school administrators at the NYC Council of Superintendents and Administrators regarding estate planning needs at retirement.

March 27: Dan joined New York's American Cancer Society's Planned Giving Counsel.

April 5: Dan taught undergraduate students at the Borough of Manhattan Community College the features and benefits of Wills.

May 16: Dan provided pro bono services to victims of domestic violence at Bronx County's Family Justice Center in conjuncture with the FPA's Pro Bono Committee.

May 21: Dan provided pro bono services at the National Multiple Sclerosis Society's Ann Davis Legal Day in Manhattan.

May 26: Dan taught his first national online CLE course for Lawline.com to attorneys regarding drafting Wills in a way that leads to a simplified Probate.

May 26: Dan provided pro bono financial counselling to the public through the New York Public Library's Science, Industry and Business Library.

RATED BY
Super Lawyers®
Daniel A. Timins

For the third year in a row Dan was named a New York Super Lawyer Rising Star for Estate Planning Law by his colleagues in the Trusts and Estates community.

Avvo Ratings
10.0
Daniel Alan Timins
Top Attorney

In March, 2017 Dan received a 10 Rating, "Top Attorney" from Avvo.com, a web site devoted to informing the public of attorney's reputations amongst their peers, the public and their clients. A special thanks to all of his clients who helped him achieve this achievement!

Special Thanks

We all start small and have people to thank from when we were a little person. Eight years ago, years before my current stretch of good fortune and recognition, I was introduced to **Stephen Cohen** and **Michael Luftman**, financial planners from Fortix Lux Financial. For some reason they believed in me, and gave me a chance to work with some of their referrals. Since that time I have had the privilege of working with many of their financial planning clients, all of whom I can honestly say are wonderful people who are unhesitatingly grateful for their relationship with Stephen and Michael. I have entrusted them with my own recommendations, and continue to refer my most trusted clients to them without hesitation. I can think of no financial planners with greater integrity and commitment to customer service, and no individuals more deserving of my unwavering thanks: Without the two of you there would be no me.

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