THE LEGAL BULLETIN

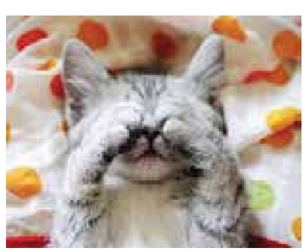
Vol 6. December 2017

Happy Holidays... and PANIC!!

WOW what a difference six months makes! As I write this edition of the Newsletter Congress is reconciling the **Tax Cut and Jobs Act**. After an entire year of textbook "accomplish-nothing politics", our federal government is about to pass the most meaningful tax legislation in a generation at near-light speed. The impact of limited real estate deductions and the elimination of state and local tax deductions against federal income taxes (as well as limits on health care costs, student loan interest, and others) will have long-lasting effects on both your income and future generations, wealth. Let's get it out of the way: If you are in the metropolitan New York area earning a middle-class income your financial life is about to take a turn for the worse.

Meanwhile, state budgets look like they are being administered by Mayor McCheese, not seasoned politicians. Connecticut's credit rating looks more like Greece than a New England state. New Jersey got rid of a governor / bridge troll who seems unemployable in any profession other than selling his likeness to punching bags and beach chairs, but Jerseyites know better than to believe their new governor has the charisma to solve their financial woes. Lastly, in one of the most one-sided state elections in my lifetime, New Yorkers overwhelmingly voted not to change the state's Constitution, thereby ensuring adding to the state's $137 Billion commitment in state employee pensions and health care costs. While this should maintain benefits for public servants and retired state employees, it will overwhelm municipal coffers at the same time state and local income taxes will no longer be deductible. Mad Max meets Planet of the Apes on a comet racing toward the sun, Michael Bay as director.

Remember that life goes on, and as long as you know the facts on the ground you can PLAN for the obstacles that are materializing as you read this. So instead of reiterating what everyone else is telling you about the tax bill, allow me to share some perspectives you may not have heard yet:



Watch Out for Fees and Fines – Any northeast politician would be crazy to raise taxes in this environment. Instead, they will resort to technology. No, they will not hire robots to do your job (yet), but they will start using computer power to cross-check your decade-old tax debts, out-of-state parking and traffic tickets, and outstanding fines and late fees. Look for higher charges on water and sewer bills, more hidden fees for utilities, and increased costs for professional licenses.

REMEDY: Buy a scanner and keep receipts digitally, pay fees immediately; government agencies are often wrong, so set aside time to fight fines when you know you are right unless the return is nominal, in which case pay and move on.

Less Deductions for the Sick and Elderly – If you are elderly and sick, you have likely been deducting a lot of your medical costs – those over 10% of your adjusted gross income – by increasing your IRA distributions, thereby equalizing taxable income with high health care expenses. Yes, unlimited medical deductions may become a part of history for those of us with decent income.

REMEDY: If you do have large medical deductions this year, maximize your IRA withdrawals for one last time.

Stock Portfolios Don't Go Up Forever (?) – The Dow Jones Industrial Average hit new highs every single month of 2017. I have cautioned people against getting caught up in the "Trump Bump", but who knows when (and if) the "Trump Dump" will finally happen? And now, here comes a corporate-friendly tax bill. I am not an economist, and I can't say whether corporations paying less taxes will hire more people. What I can say is that corporations that pay less taxes…pay less taxes, meaning they should have higher earnings and may be incentivized to repatriate funds held

continued on next page

overseas. I would guess this means stock prices and dividends should increase, though the former may already be baked-in to current stock prices, while the latter will face a higher tax for most of my clientele, negating much of the benefit.

REMEDY: Speak with your financial planner and discuss rebalancing your portfolio; you may fare better investing in stocks for companies with increased capital returns than bonds that yield income-taxable interest.

Student Loans: Cronus Keeps Eating His Children – In the Ancient Grecian pantheon of gods, Cronus was the fatherly Titan who ate his children the moment they were born. Indeed, Cronus would be proud of us: After lashing our children with astronomical future costs of social programs and government pensions, then crushing them currently with the costs of "affordable" healthcare for everyone except them, our new tax law shall most likely limit or eliminate deductions on our children's student loan interest and tax graduate students' work-study. In our modern-day gerontocracy run by people proudly proclaiming themselves as the "Me Generation", I can think of no analogy more appropriate for our society than the "Cronus Nation," and no better explanation why Millennials feel they are being financially ruined before their first day of work.

Put your politics aside for a moment and allow yourself a moment of clarity: Both political parties are to blame, the trend against younger generations will only get worse, and you can take steps to help your younger family members if you care to.

REMEDY: Plan and take steps to pay for a child's higher education

at the expense of leaving a future inheritance, but set the expectation that there are financial consequences to choosing an educational path that generates little future wealth.

Choose Your Domicile Well, But Only if You Care – Let's continue this exercise in honest reflection: Tax rates in the Northeast have always stunk , and determining the sheer number and types of taxes imposed here have required a graphing calculator since before graphing calculators existed. If you hated living in the New York Metropolitan area you probably would have left already. True, if you always wanted to move to Florida or Texas or the 5 other states without income taxes you now have yet another reason. But you leave behind the culture and Northeast sensitivities you lived with for years, the ability to drive anywhere or not drive at all, and the opportunity to eat at some unique 4 Star Vietnamese-Ethiopian fusion restaurant. I lived half of my adult life outside of the Northeast, and can tell you the grass is always greener on the other side until you are mowing it.

REMEDY: Face it, except for a handful of people in the financial industry, most of us haven't lived in the Northeast as a financial proposition for decades. Moving is still an option, but absolutely requires financial planning, so talk to your financial professionals. And don't assume Canada wants you there, they are sick of hearing of the influx of immigrants from the south every four years that never comes.

Bitcoin & Crypto-Currency: Highfalutin or Worth the Risk?

"Bitcoin, Ethereum and Litecoin. And what is Bitcoin Cash? I know about stock splits, but what is a crypto cash split? Wait, if I lose my passcode I lose my investment? And how exactly do people 'mine' cash? Forget it, I don't understand it, I don't want any part of it…"

I was watching CNBC in 1998 and watched an interview of an Yale-accented erudite-sounding mutual fund manager saying "I don't know how to use Amazon.com, I haven't looked at their website more than twice, they have no walk-in stores, and I don't understand it. So my fund will never buy Amazon stock, period." The benefit of 19 years of hindsight gives me a chance to opine how much of a nitwit that guy was, but at the time it made complete sense: I didn't understand Amazon.com yet, hadn't used it, and doubted I ever would…and even now I have only used it a handful of time. And yet Amazon.com now sells everything from books to organic quinces and has more city mayors swooning over their bid for a new corporate headquarters than your wife did over the Beatles performing "I Want to Hold Your Hand." My point is: Don't avoid investments just because you don't understand them.

From an investment viewpoint, cryptocurrencies are more volatile than your adolescent nephew during a full moon, but they have appreciated tremendously. In addition, they appear to have minimal correlation to most other assets, which adds to their attractiveness when we have a real estate market and stock market are at dizzying heights. Cryptocurrencies allow for far more discrete transfers to favored family members, since transfers are more discrete than leaving them using a Will (though you should know that the

IRS does require you disclose taxable events for cryptocurrencies, and its continuing ability to rely on technology will allow them to access your initial purchase information). Lastly, they are now available in more-reliable brokerage-esque accounts, such as "Coinbase."

Pay Attention: It is not unusual for price gyrations of 10% in a 24-hour period, so hold onto your lunch if you like to look at your portfolio daily. And you should likely only invest in the top 3 – 5 crypto currencies since the quality of any cryptocurrency after that point is dubious at best and strictly speculative. Also, cryptocurrencies should not be a cornerstone of your portfolio: If you are 25 years old, your max crypto exposure is probably 10% of your portfolio, 50 years old is probably 5%, and 75 years old is 2%, but time will tell how things pan out.

And yes, I do own a small position in Bitcoin, Ethereum and Litecoin, and am dollar-cost-averaging a few hundred dollars into each of them monthly.

UTMA Accounts: BAD! BAD! BAD!

Parents and grandparents sometimes look for easy ways to give money to younger family members. The challenge arises where the recipient is a minor (minors cannot own property in their own name until 18, with some exceptions) and when the donor wants to minimize legal fees.A Uniform Transfer to Minors Act ["UTMA"] account, which leaves funds to the child when he/she turns 21, used to serve as an appropriate way to leave funds to the minor when he/she reached a more mature age. UTMAs are inexpensive: You only need to set up the account at a financial institution, name an adult custodian for the account, and let the custodian buy a suitable investment; no legal documents are necessary. In addition, UTMAs are taxed at the income tax rate of the child, who tends to have a low-income tax rate.

In my experiences as a financial planner and an estate attorney, I NEVER think an UTMA account is the best choice to transfer more than trivial funds to a family member:

1. BAD CUSTODIAN: The named custodian either makes transferring the funds an unimportant activity, does not invest UTMA funds appropriately, or feels the beneficiary is not responsible enough to receive the funds and chooses to not inform the beneficiary of the account when the beneficiary turns 21 (and since a custodian is a fiduciary, not informing the beneficiary is a breach of the custodian's fiduciary duty).

2. BAD BENEFICIARY: Returning to our earlier theme of being honest with ourselves: Most 21-year olds are still too young to receive substantial funds without supervision. Today's world is more complicated and enticing than ever before. In addition, the beneficiary may have substance abuse or creditor issues...but the funds are now theirs without restraint - the beneficiary can legally compel the custodian to transfer the funds - meaning the funds are not spent in a way the donor would have approved.

3. BAD FOR BENEFITS: UTMA funds are includable on a FAFSA form, so significant amounts in an UTMA can hurt student aid; if education funding is the goal, better to leave funds in a 529 Plan - UTMA beneficiaries can't be changed - if worst comes to worst 529 Plan beneficiaries can be changed. If the beneficiary is receiving Medicaid or some other benefit when he reaches 21 (remember, some illnesses such as bipolar disorder and clinical depression don't manifest until adolescence) the UTMA funds will be included in the beneficiary's resources, thereby invalidating benefits.

4. EASY TO LOSE: Because the custodian is the sole recipient of UTMA account statements, if the custodian dies or does not update address changes, the beneficiary may never find out about the account. Remember that the financial institution does not ask for the beneficiary's address, so UTMA accounts can hang in the lurch for years.

Allow me to reiterate: I almost NEVER see an UTMA fulfill the desired end-result of properly transferring wealth to another individual. In my opinion a suitable trust, which allows for written contingencies and future flexibility, always trumps the staunch-and-inflexible rules governing UTMA accounts. UTMAs do not protect the beneficiary from him/her self, creditors, or future changes in the law. While I appreciate that clients want to save funds by not having to pay legal fees for every single substantial gift they make to a beneficiary, UTMAs are another example of attempting to be penny wise and pound foolish.

SO, for those of you still asking, "But Dan, how do you REALLY feel about UTMAs?", allow me to sum it up: UTMAs are bad news, don't do them, no.

DAN SAYS:

- **Have Open Discussions:** Try having detailed discussions about end-of-life issues with your family and health care agents.

- **Validate POAs with Your Bank & Broker:** If you fall ill or feel the gravity of advanced aging, contact your financial institutions and ensure your Power of Attorney is in effect.

- **Don't Trust Courts & Government:** Speak with your attorney about any unclear action you take before you rely on government agencies and actors; avoid bringing family affairs to the attention of courts except as a last option.

- **Draft Trusts:** When there are complex family dynamics, create Trusts to avoid court oversight and intervention and leave your original Will with your attorney.

- **Don't Create Your Own Legal Documents:** Beware of do-it-yourself legal forms. While they may be suitable for your needs (about 80% of the time) they are often not properly executed and thus ineffective (at least 50% of the time).

- **Stay In Touch With Legal Counsel:** Stay in touch with your attorney annually once you are an octogenarian.

What Has Dan Been Doing?

The New York Times

August 25: Dan is interviewed by the New York Times on "Estate Planning: Leaving a Home to Heirs While You're Still Alive"

Visit: www.timinslaw.com/publications-events

asset tv

September 7: Dan was interviewed on Asset Television

Special Thanks:

Rest In Peace Norman "Jerry" Palumberi, CPA

Jerry Palumberi was my firm's first landlord when I moved my primary office from White Plains to Manhattan in 2013. While every move is exciting, it is also taxing on the soul and the wallet. In the span of a few weeks Jerry introduced me to several clients in need of my services, and I never had trouble paying rent. His passing on November 24th has devastated me.

Of the many people who helped me attain this life for which I am grateful, Jerry was the kindest. I looked up to him, retained his learned advice, and laughed at his many stories. His wake was overflowing with wonderful people, his funeral was standing-room only, and I am certain everyone only had great things to say about him: Jerry was that kind of man.

Jerry leaves behind his wife Maureen, many children and grandchildren, and friends as numerous as blades of grass, of which I was one. The world is greatly diminished by his passing, but more greatly enriched by his legacy and memory. Rest in peace my friend.

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!

DANIEL TIMINS LAW OFFICES
477 Madison Avenue - Suite 240
New York, NY 10022
NYC: (212) 683-3560 | Westchester: (914) 819-0663
www.TiminsLaw.com