Planning Smart™

Winter 2007

PLANNING SMART IS A FEATURE OF OUR *BECAUSE YOU CARE NEWS* newsletter. Our goal is to provide you with additional information on the complicated financial, tax, and estate matters that affect you every day. Each issue is prepared by attorney Conrad Teitell, a nationally recognized estate planning and charitable giving attorney.

Highlights of the New(est) Tax Law

The recently passed Tax Increase Prevention and Reconciliation Act brings good news to many taxpayers. Here are some key provisions.

Capital Gains and Dividends

The 15 percent top rate for long-term capital gains and qualifying dividends is extended through December 31, 2010. For taxpayers in the 10 percent and 15 percent tax brackets, the rate is five percent through 2007 and drops to zero for 2008 through 2010. But note that long-term gains from non-recaptured real estate depreciation can be taxed as high as 25 percent, and gains on tangible personal property (e.g., a painting) can be taxed as high as 28 percent.

Reminder: You pay no capital gains tax on charitable gifts of appreciated property. And itemizers can generally deduct the current fair market value of the property—not the cost basis. Using appreciated property to fund a gift (e.g., charitable gift annuity) that pays you income for life can also be highly advantageous. We'd like to give you the details.

Alternative Minimum Tax (AMT) Exemption

Originally intended to prevent ultra high-income individuals from totally avoiding taxation, the AMT, without indexing for inflation, has come to affect middle-income taxpayers too. A "patch" provides modest relief for 2006. The exemption for married couples is increased to $62,550 (up from $58,000). For single taxpayers, the 2006 exemption is $42,500 (up from $40,250). And for 2006, current law is extended to allow most personal tax credits (e.g., credits for dependent care, the elderly and disabled, and education) to be claimed against the AMT.

Expensing for Small Businesses

Under current law, small businesses may deduct up to $100,000 of investments in depreciable assets in the first year. The deduction phases out dollar-for-dollar to the extent investments exceed $400,000. The expensing limit would have declined to $25,000 (with phase-out at $200,000)

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in 2007. The current, more generous, provision is extended through 2009.

The "Kiddie Tax" Now Applies to Older Children

Starting in 2006, children under age 18 (up from 14) will be taxed at their parents' marginal top tax rate on unearned income above $1,700. Exempted: distributions from certain qualified disability trusts.

Conversion of an IRA to Roth IRA

The $100,000 modified adjusted gross income limitation on rollovers from a traditional IRA to a Roth IRA is removed in 2010. The conversion amount is taxable but there is no early withdrawal penalty. For 2010 conversions only, you can elect to pay the tax equally over the next two years. There's no need to rush your decision. This provision isn't effective until 2010 and Congress could even change the law by then.

Thinking of Converting Your Traditional IRA?

The advantages:

- Roth IRA contributions are made with after-tax dollars so distributions are tax free.
- Earnings accumulate tax free.
- There is no minimum distribution requirement during your lifetime.
- The proceeds of a Roth IRA are not taxable to named beneficiaries.

The considerations:

- When do you plan to begin taking distributions from your Roth IRA? A longer period provides more time for tax-free earnings to accumulate.
- What tax bracket do you project for retirement? The conversion benefits diminish with a low post-retirement rate.

Philanthropy—A Family Tradition

Warren Buffett's recent contribution of $31 billion to the Bill and Melinda Gates Foundation made headlines not only for the amount of his gift, but also because it was made during his lifetime. Mr. Buffett wanted to witness the miracles that his generosity would work.

He also added to his three children's and his late wife's foundations—continuing a family commitment to philanthropy that will live on long after he is gone.

But you don't need to be a billionaire—or even a millionaire—to experience the satisfaction of making a significant lifetime charitable gift and establishing your own family tradition.

Many of our friends have the joy of lifetime giving and the pleasure of setting an example for their children and grandchildren. They're able to make major contributions without jeopardizing their financial future by funding life income plans with The HSUS. We'd like to give you and your adviser more information.

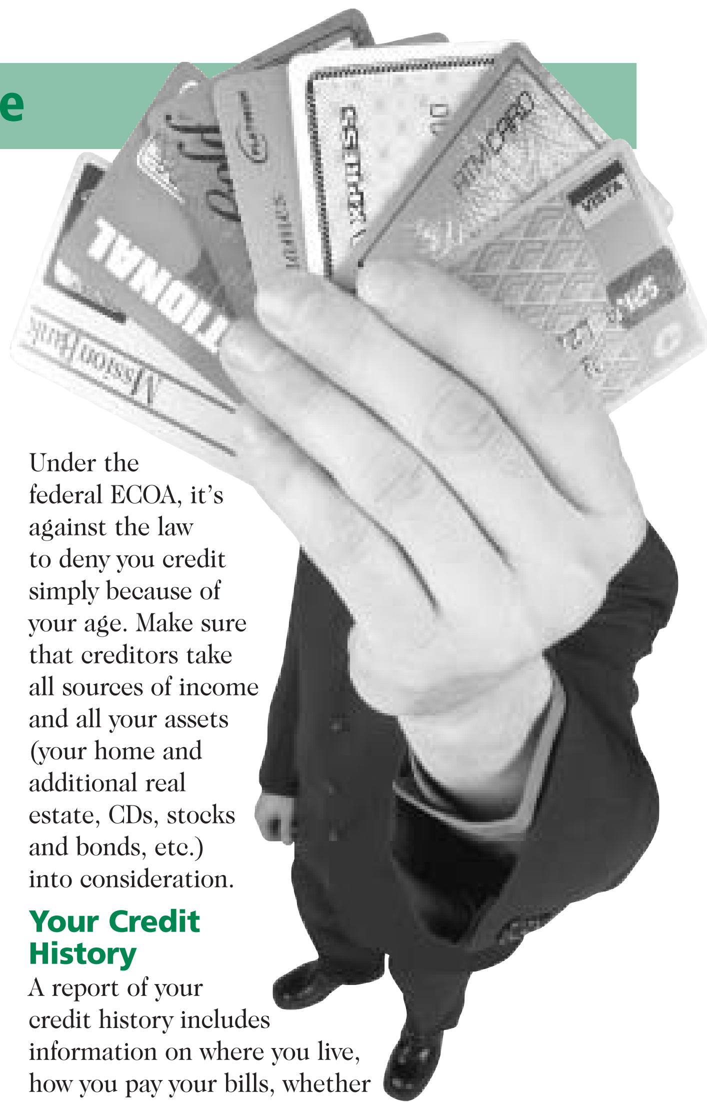
Check the Company First

Insurance fraud—especially for health care—is increasing and individuals and small businesses are often the victims.

The National Association of Insurance Commissioners advises consumers to shop around, review insurance needs annually, and protect themselves from fraud by calling 866-470-NAIC (6242) or using the association's new website: *www.insureuonline.org*.

Consumers can check on the number and type of complaints filed against companies offering policies in their state, get important financial information about the companies, and even file complaints.

Get the Credit You Deserve



Access to credit is such a part of everyday life that most of us don't think about it unless we're unfairly denied the right to open a charge account, take out a home mortgage, or get an auto loan.

The Equal Credit Opportunity Act (ECOA) ensures that all consumers applying for credit are treated equally. That doesn't mean that every individual applying for credit will get it; factors such as income, expenses, debt, and credit history are considered. But the law protects everyone from discrimination.

Among your rights under ECOA, creditors may not deny you credit because of your sex, marital status, race, national origin, or religion, or because of your age unless it's a factor in the credit decision (e.g., term of a mortgage). They're also not permitted to discount income because of your sex or marital status or refuse to consider income from part-time employment, a pension, an annuity, or regular alimony, child support, or maintenance payments. You also have the right to keep your own accounts if you've changed your name or marital status or retire, unless there's evidence that you're not able to pay.

Credit for Women

Many couples share household responsibilities and make joint decisions, but when it comes to credit, one spouse (usually the husband) may hold all the cards. Death or divorce can leave the other spouse without a credit history. Women can also lose their credit histories when they marry and change names or if creditors reported joint accounts in the husband's name only.

The solution: establish individual credit histories for both spouses before the need arises—even if one spouse is the primary wage earner. Get credit cards in individual names, open separate checking and savings accounts, make individual investments, and take out loans in each spouse's name. All relevant information should be on file under your name with the credit bureaus.

Already Widowed or Divorced?

Begin by opening individual bank accounts in your name. Apply for a small loan—with a co-signer if necessary—and repay it promptly. Apply for department store or gasoline credit cards—they're generally easier to obtain. Piggyback on the credit history created during your marriage. Show that you shared financial responsibility by contributing to the family's support or by paying bills, for example.

Credit for Older People

If you're the kind of person who's resisted charge accounts and always paid with cash, you may find it difficult to open a credit account. Or, if your spouse dies, you may find creditors closing joint accounts. Under the federal ECOA, it's against the law to deny you credit simply because of your age. Make sure that creditors take all sources of income and all your assets (your home and additional real estate, CDs, stocks and bonds, etc.) into consideration.

Your Credit History

A report of your credit history includes information on where you live, how you pay your bills, whether you've ever filed for bankruptcy, etc., and is sold to banks, insurers, and other businesses. Check to see that the information is complete and accurate. Credit information about shared accounts should be reported in both spouses' names if you are married.

The Fair Credit Reporting Act requires each of the major nationwide consumer reporting companies to provide you with a free copy of your credit report once a year. To order your free annual report, go to *www.annualcreditreport.com* or call 1-877-322-8228.

If You Suspect Discrimination

You have the right to know why your application was rejected. Complain to the creditor and make it known that you're aware of the law and must be given the name and address of the proper agency to contact. Check with your state's attorney general to see if the creditor violated state equal credit opportunity laws. The Federal Trade Commission (FTC) works to provide information for consumers and to prevent unfair business practices. Although the FTC cannot intervene in individual disputes, it may act if it finds a pattern of possible law violations. To file a complaint, go to *www.ftc.gov* or call 1-877-382-4357.

Choosing Beneficiaries

Assuming that your will determines who will benefit from your life insurance and pension plans is a common estate planning misconception. Naming beneficiaries is a crucial part of a good estate plan. Here are some key considerations.

Life Insurance

Don't designate your estate as beneficiary unless there's an important estate planning reason to do so. Named beneficiaries are paid immediately, saving heirs the time and expense of probate.

Always name "contingent" or secondary beneficiaries in case an original beneficiary does not survive.

Word beneficiary designations carefully. For example: naming specific children or grandchildren could leave out those born after you took out the policy.

Plan for eventualities: e.g., decide how grandchildren would inherit if a child predeceases you.

Periodically review your beneficiary designations. It's a simple process and can be done as often as necessary.

Traditional IRAs

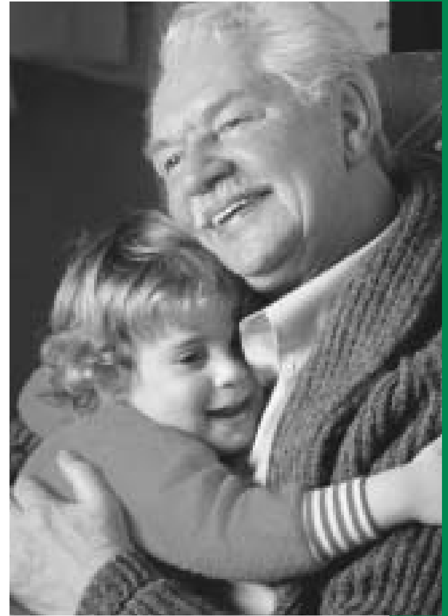
IRA assets represent a significant portion of the wealth of many Americans. Wise planning lets heirs take maximum advantage of a tax-deferred IRA.

The All-Important Beneficiary Form

You can leave an IRA to anyone—it doesn't have to be a family member—and the proceeds pass to the named beneficiary independent of your will.

If no one is named—or the primary beneficiary dies and there's no backup—the assets go to your estate. Your heirs pay hefty income tax bills and the distributions can't be stretched over their lifetimes. To make sure your beneficiary designations are on file, fill out a new form, keep a copy and send it certified, return receipt requested, to your IRA provider.

A widowed spouse has maximum flexibility. He or she can keep the IRA in your name, roll the assets over into his or her own IRA (with the power to name new beneficiaries), or disclaim the inheritance in favor of a child or grandchild.



Other beneficiaries have two choices: take the entire amount and pay ordinary income tax, or roll it over into an inherited IRA, take distributions over their life expectancies, and allow the remaining assets to continue to grow tax free in the IRA.

If you name multiple beneficiaries, it's important to specify how you want the money divided. Distributions are based on the age of the oldest beneficiary so consider splitting the account to enable younger beneficiaries to stretch out distributions.

The distribution rules for IRAs and other retirement plans are complicated and the tax implications serious. Consult your adviser; she or he can help you provide for your family in the best way.

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