

Planning Points

The Karp Law Firm, P.A.

2011 Annual Newsletter

Message From Mr. Karp

As we begin the new decade I want to thank all who have placed your trust in The Karp Law Firm over the years. You have made us part of your extended family, relying on us for help with some of life's most important and personal decisions. Attorneys Genny Bernstein, Adele Small Harris and I believe that most people want and need more from a legal advisor than a set of documents and a wave goodbye after the ink dries. You seem to agree.



This newsletter is one of the ways we stay connected. Feel free to call if you have questions, and of course, please pass it along to your family and friends.

The past year has been a challenging one for so many of us. No one can predict with certainty what the new year holds. But you can be certain that we will continue to be here for you and your family. We look forward to another decade with you and wish you, yours, and our nation a year of happiness and renewal.

All the best,

Estate Tax: What Now?

If you're looking for closure on estate tax matters, you got it on Dec. 17... *but only temporarily*. President Obama signed legislation which for the next two years provides a 35% maximum tax rate on estates over \$5 million. The guessing game has already begun over what will happen when the law expires on Dec. 31, 2012. And with the new law such a bitter pill to swallow on both sides of the aisle, who knows if it will be revamped prior to then? These are volatile political and economic times.

So what to do now? First, remember that *federal* estate tax is not the entire estate tax story. Certain *states* continue to impose their own estate tax. For example, New Jersey may tax assets in excess of \$675,000; New York may tax assets over \$1 million. Florida residents who are newly widowed, or who have health issues, often relocate to be nearer family. If you think relocating to a state that imposes an estate tax might be in your future, you're wise to get your estate planning ducks in a row now.

Also, if your existing estate plan already includes tax planning based on prior laws, talk to us about those provisions. A prime example is a married couple with a Credit Shelter Trust and combined assets under \$5 million. Upon the death of the first spouse, the survivor will be

THE KARP LAW FIRM

A Professional Association

Elder Law • Estate Planning & Administration • Probate • Disability, Special Needs, Medicaid & Veterans Benefits Planning

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required to split the assets into two pots. This was an effective tax-savings strategy before, but may not be now. If one spouse dies today, it could create unnecessary paperwork and expense for the survivor. Therefore, some of our clients may wish to establish a Spousal Option Trust, which gives the survivor the option, but not the duty, to create a Credit Shelter Trust if doing so is advantageous when the first spouse passes away. The Spousal Option Trust provides you with continuing flexibility regardless of the current tax landscape.

One of the more notable provisions in the new law is the “portability” provision. In general terms, portability means that if one spouse does not fully utilize his/her entire \$5 million applicable exclusion amount, the unused portion can be used by the surviving spouse’s estate. This provision is intended to avoid the need for Credit Shelter Trusts in estate planning documents. Unfortunately, we have no assurance that the portability provision will continue after Dec. 31, 2012.

If you have substantial assets and wish to reduce the size of your taxable estate, the new law provides enhanced gifting opportunities.

You may still make gifts up to \$13,000 annually to as many people as you wish, and in any amount to medical providers and educational institutions. But now, you may also gift up to \$5 million, gift tax-free, over the course of your lifetime. This is an excellent estate planning tool as well as a way to help loved ones during these difficult financial times. This opportunity may disappear if (or more likely, when) the law changes again, so take advantage of it while you can.

Lastly, despite all the sound and fury over taxes, remember that tax considerations are just one reason—and not necessarily the most important reason—to establish an estate plan. Good planning allows your loved ones to avoid unnecessary hassles, delays and fees when you pass away; ensures a smooth transition and keeps the court out of your affairs if you become disabled or ill; keeps you in control of your medical destiny; and paves the way for family harmony in the event of death or disability. These goals have nothing to do with tax policy, but everything to do with your peace of mind. Whether your balance sheet shows \$50 million or \$5,000, peace of mind is a goal well worth pursuing.

Probate Litigation

There seems to be an increase in estate challenges these days. Maybe it’s because people are more willing to fight for their piece of the pie in these tough economic times. Call upon The Karp Law Firm for help if any of the following apply to you:

1. You are a Personal Representative or Trustee and you want to be sure that you comply with all your obligations in order to avoid estate litigation.
2. You feel you have cause to challenge an estate plan.
3. You are a Personal Representative or Trustee who is defending an estate that is being challenged, or concerned that you may have to defend it in the future.



Americans will put up with anything, provided it doesn't block traffic. -Dan Rather



The Karp Law Firm's Client Workshop

The Estate Tax is Back!

New Opportunities, New Problems, and What It Means For You

Attorneys Joseph S. Karp, Genny Bernstein, Adele S. Harris

Investments to Increase Your Income Now

Steven J. Levine, President of Karp Financial Services, & Other Speakers

Coffee & Pastry Available

***This event is open to clients only. Seating is limited.
Reservations are required and are first come, first serve.***

How to Make Reservations

(1) Choose ONE session

Port St. Lucie

Tues., Feb. 22, 2011
10 am to 11:30 am
Port St. Lucie Holiday Inn
10120 S. Federal Hwy.
(North of PSL Blvd)

Palm Beach Gardens

Wed., Feb. 23, 2011
10 am to 11:30 am
Palm Beach Gardens Marriott
4000 RCA Blvd.
(east of I-95, south of PGA)

Boynton Beach

Thurs., Feb. 24, 2011
10 am to 11:30 am
Courtyard by Marriott
1601 N. Congress Ave.
(corner Gateway & Congress)

(2) Send us a message by Email or phone:

By Email (preferred):
RSVP@karplaw.com

By Phone:

Boca to Delray: (561) 752-4550, Ext. 131
Boynton to Tequesta: (561) 472-7470
North of Tequesta to Ft. Pierce: (772) 343-8411, Ext. 131
Out of area: (800) 893-9911, Ext. 131

(3) Your Email or phone message should contain this information:

- The session you wish to attend.
- The full names of everyone who will attend. Please spell.
- The total number of people who will attend.
- Your daytime phone number WITH AREA CODE.

We will Email or call you to confirm your reservation



Certified Public Accountant Rebecca Maglio can assist you with your tax returns, whether or not you are a client of The Karp Law Firm. To discuss your needs, Email Ms. Maglio at rmaglio@karplaw.com, or call 561-625-1100 in Palm Beach Gardens; 561-752-4550 in Boynton Beach; and 772-343-8411 in Port St. Lucie.

“I Wish I’d Done This Years Ago!”

That’s a typical comment we hear from families who are facing the imminent threat of losing everything to a loved one’s nursing home expenses. The spouse, if there is one, may be frantic that there will be nothing left to live on. Over our years of practice, we have been able to secure Medicaid benefits and preserve significant assets for many families struggling with this situation. However, drastic state cutbacks are looming. It’s safe to say that Medicaid long-term care benefits are going to get far more difficult to secure. Do not wait for a crisis. The sooner your planning begins, the more options you will have and the more assets can be preserved. Contact us to start planning for tomorrow, today.

New Homestead Law: Potential Problem for Second Marriages?

For Floridians in second marriages, a recent modification to the state’s homestead law seems poised to be more Pandora’s Box than problem solver. Previously, the law stated that when a married person is the sole owner of Florida homestead property and passes away, the surviving spouse who is not inheriting the home outright has the right to live in it for the rest of his/her life (a “life estate”). Only a valid premarital or postmarital agreement can waive the spouse’s life estate rights. That law has now changed: **Effective Oct. 1, 2010, the surviving spouse who has not waived homestead rights has two options: Take the life estate, or elect to be 50% owner of the deceased’s home along with the decedent’s children.**

The new law presents several potential complications. If the survivor opts for co-ownership, he/she can also force the sale of the homestead property —*even if the decedent’s children (the co-owners) do not agree*. The survivor can sell for any reason: failing health, inability to pay the home expenses, or simply a preference to live elsewhere. Obviously, selling the home means the decedent’s children will not inherit the home as their parent desired. Furthermore, *the survivor has the right to leave his/her 50% share to anyone* — including children from the survivor’s prior marriage. If that occurs, adult children from both families will be forced into co-ownership of the home. They will need to work together to maintain the house as well as figure out how to dispose of it. Doesn’t sound like a scenario made in estate planning heaven, does it?

The new law is effective for all deaths that occur after Oct. 1, 2010. (The date you created your estate plan and the date you married are immaterial with respect to the new law.) You should set an appointment to review your estate plan if the following apply to you:

- You are in a second marriage.
- You are the sole owner of Florida homestead property that is your primary residence.
- You have children from a prior marriage who you want to ultimately inherit the property.
- You do not intend to leave the house outright to your spouse.
- Your spouse has not waived his/her homestead rights.



The only certain thing about the future is that it will surprise even those who have seen furthest into it. -EJ Hobsbawn

Kudos & Community

Attorney Joseph Karp was elected President of the American Association of Trust, Estate Planning & Elder Law Attorneys and was recognized as a 2010 Florida “Superlawyer.” **Attorney Genny Bernstein** was named one of the 2010 “Legal Elite” by *Florida Trend*.

Staff participated in *Passionately Pink for the Cure Day* in October, raising funds for the Susan Komen Foundation. Staff also contributed food and other goods to The Lord’s Place homeless shelter in appreciation of **Attorney Karp** and **Firm Administrator Audrey Yeager**.

Attorney Karp and Judge Roger Colton shared the podium at a business leaders forum sponsored by RBC Bank. They discussed the impact of the mortgage crisis on the community, and the legal issues clients are facing as a result. **Attorneys Karp, Bernstein and Harris** spoke to several other organizations this year, including the Wellington Rotary Club, Hospice by the Sea, National Association of Active & Retired Federal Employees, Quest for Knowledge Program, Jewish War Veterans Delray Post 266, Coral Lakes Brooklyn College Club, The Veranda Club, Okeechobee Health Care, Abbey Delray South, La Posada Alzheimer’s Support Group, and American Red Magen David.

The Karp Law Firm hosted three workshops for nearly 200 social workers to bring them up to date on relevant laws. **Thanks to our hosts Prosperity Oaks Palm Beach Gardens, Homewood Residence Delray Beach, and Lynmoore Fort Pierce.**

Bakeoff! Mr. Karp judged entries at our annual cookie exchange. Paralegal Gail Brown’s pumpkin chocolate chip cookies nabbed 1st prize. Find all our recipes at: www.karplaw.com/page/cookies



Holiday Party



Halloween Party



Deciding On Decision-Makers Can be Perplexing

Who should you name to make your financial decisions if you become incapacitated? Who should you put in charge of settling your estate? The obvious choice is not always the best one. Under some circumstances, choosing someone *outside* your family—a third party trustee—may be the most desirable option. Whether you are re-thinking your current estate plan or setting one up for the first time, this is an important issue to consider.



Many clients want to designate all their children to serve as equal decision-makers because they don't want to offend any one, and also want to avoid paying third party fees. For example, one client insisted on appointing both his sons as co-agents of his Durable Power of Attorney. The brothers got along fairly well, but a huge disparity existed in their economics: The older brother was a middle school teacher; the younger, an internet guru who vastly out-earned his sibling. When the client developed dementia and moved into assisted living, the sons took over his finances. That's when the conflicts started. The older son wanted to let his father's funds remain in the CD's and money market accounts his father had favored. The older son, far less fiscally conservative, argued that the money should be invested in the stock market, where it would provide a better return. Had only one of them or an independent third party been in charge, the dispute could have been avoided.

Where blended families are involved, family conflicts are often amplified. One woman who sought our help was the sole trustee of her recently deceased husband's trust. Theirs was a second marriage, but they had been married 30 years, so she seemed the logical choice to handle his affairs. He had given her access to the trust income, but not to the principal of the trust. However, she was responsible for

managing the principal, which was to pass to her late husband's children from a prior marriage. Alarmed over the principal's decline in value, his children were now pressuring her to hire a professional money manager. She was upset over their request for two reasons: One, she believed it indicated a lack of trust. Second, a money manager's fees would come out of the trust income on which she depended. Eventually she gave in to her stepchildren's request, but today, resentment still lingers on both sides.

When family dynamics suggest that issues of this nature are likely to occur, the best solution is often a third party fiduciary. There's a cost in dollars, of course, but usually a considerable savings in family harmony. If your family members are going to be angry with anyone, at least it will be with the third party—not with one another! Even if you already have

documents in place, changing them is a lot cheaper than the toll a poor decision may take on your family. Bank or brokerage trust departments, a Certified Public Accountant or attorney may be able to serve as fiduciary. Attorney Karp is an Accredited Investment Fiduciary® with special training in this area, and our office is geared up to perform these functions. Call us for more information.



Elder Law Radio

Attorney Joseph Karp appears monthly on WSBR Radio 740AM's "STARS" show. Check out local listings or find the schedule at www.karplaw.com. Program archives are also available for downloading from our site.



Adults are always asking little kids what they want to be because they're looking for ideas. -Paula Poundstone

New Reverse Mortgages, Lower Fees

Many clients come to us with longstanding, effective relationships with a financial professional. Such relationships can be hard to find, so we always recommend sticking with the person you know and trust. But if you've been less fortunate, or are looking to establish a relationship for the first time with a financial advisor, consider contacting Steven Levine of Karp Financial Services. Mr. Levine is helping many clients navigate these challenging times and make sound decisions about investments, annuities, insurance and more. He will be happy to set up a no-charge meeting to discuss your concerns. You do not need to be a Karp Law Firm client to use Mr. Levine's services. Call him at 561-626-1130 or 877-319-1130 toll free.



The FHA is offering new reverse mortgage products that Mr. Levine will be pleased to discuss with you. The FHA's new Home Equity Conversion Mortgage Saver Plan reduces upfront mortgage premiums from 2% to just .01% of the property's value. Although borrowing limits are less than with a standard HECM reverse mortgage, for many, they're a much more affordable option. Unfortunately, because of past abuses by financial "professionals," reverse mortgages are viewed by many with skepticism. The truth is, a reverse mortgage, provided there is full disclosure and you fully understand all the terms, can be an enormously helpful way to generate cash and peace of mind. Call Mr. Levine for more information.



The Karp Law Firm is committed to keeping you current with the news that may affect you and your family. Below are sites where we provide you all the latest information and opinion, 24/7:

Blog:

www.karplaw.blogspot.com

Website:

www.karplaw.com

Facebook:

www.facebook.com/FloridaElderLaw

Twitter:

www.twitter.com/FloridaTrustLaw

www.twitter.com/FlaMedAtty

Driver's License Renewal

New regulations require that you have multiple documents on hand when you renew your Florida drivers license. Many clients report waiting in line for hours at the DMV, only to be turned away because they did not have the required paperwork. A trip to the DMV is already about as enjoyable as a root canal, so make sure you're prepared when you go. At this writing, you will need 1 proof of US legal residence; 1 proof of Social Security; 2 proofs of current address; and 1 proof of any legal name changes. You can renew up to a year and a half in advance. Procrastinators can disregard this advice, but we suggest you renew as soon as possible. That way, if you have a problem, you won't be stuck without a license for any period of time. To check for the most up-to-date requirements, call your local DMV or log on to www.gathergoget.com.



Inside every older person is a younger person—wondering what the hell happened.

-Cora Harvey Armstrong

IRAs: The Devil is In the Details

Be vigilant when managing your IRA, 401Ks and 401Bs. “Little” errors can end up costing you and your family big! Some details you need to get right:

1. Make sure you’ve named a beneficiary. Otherwise the IRA could be liquidated and taxed at your death, then the proceeds added to your estate and taxed again.
2. Don’t name a grandchild or other minor as beneficiary. When a minor inherits it, a guardianship may need to be set up. If you want your IRA to go to a minor, establish a trust for the benefit of the minor’s IRA inheritance.
3. For decades, financial institutions have been merging, re-merging and along the way, converting to different computer systems. Your original records may not be easily traceable, so make sure you have a copy of the paperwork with your beneficiary designations, and keep it in a safe place. If your bank can’t locate your beneficiary designations, your IRA could end up probated and taxed.
4. There are ways to stretch out your IRA so that your heirs can take advantage of even more tax-free growth. We can discuss these options when you come in for your initial consultation or for your three year review.



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