

# Planning Points



The Karp Law Firm, P.A. *"Your Peace of Mind is Our Priority"* 2013 Annual Newsletter

## Message From Mr. Karp

The nonstop campaigning is over, thank goodness! Now our elected officials must get down to dealing with extraordinarily tough issues. I expect the next months to bring significant legislative developments that will affect each of us and our families. As you peruse this newsletter, you will read about many changes that have occurred at lightning pace in the last few months alone.



I urge you not to wait for our annual newsletter to track the news. You can find the latest information on the "What's New" section of our website, [www.karplaw.com](http://www.karplaw.com), and on our blog, [www.karplaw.blogspot.com](http://www.karplaw.blogspot.com). You can also sign up for our monthly e-newsletter from our website. Checking these resources will keep you ahead of the curve. Feel free to recommend these online resources to your family and friends, too; they are available to all.

Wishing you and yours a happy, healthy and prosperous New Year!

All the best,

## Finally!

Years of congressional foot-dragging on federal estate and gift taxes finally ended on January 1, when Congress passed the American Taxpayer Relief Act. The Act sets the lifetime estate and gift tax exemption at \$5 million per person, adjusted annually for inflation (the 2013 figure is \$5.25 million), with a top tax rate of 40%. The portability provision remains intact, and the gift and estate tax remain unified.

The new law eliminates estate tax concerns for all but a tiny percentage of Americans. Of course, the middle class with non-taxable estates will continue to rely on good estate planning to achieve a host of vital goals unrelated to tax considerations: making sure assets flow efficiently to loved ones; protecting assets from the ravages of long-term care costs; avoiding guardianship; promoting family harmony; keeping the courts out of their personal affairs; and avoiding the expense and lack of privacy of probate.

Married couples whose revocable trusts incorporate tax planning (AB trusts) but whose estates are no longer taxable under the new law, may wonder if it is now wise to eliminate the credit shelter provision of their trusts. There are positives and negatives to doing so. On the positive side, the credit shelter trust offers many

**K****THE KARP LAW FIRM***A Professional Association*

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

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benefits beyond tax considerations: It can provide possible creditor protection for the survivor, and provide a method to protect the passing of your assets to your children if your spouse outlives you and remarries. Also, if the survivor moves to another state with its own estate tax (New York or New Jersey, for example), the assets in the credit shelter will not be considered part of the survivor's estate, and therefore will not be subject to state estate taxes. On the negative side, the surviving spouse will be required to maintain two separate trusts upon the first death, which requires additional paperwork, and legal and accounting fees. These extra steps can be eliminated by amending your trusts so that they can be merged upon the first death. If you are a client of our firm, we can discuss your options when we meet with you for your free three-year review.

If you are a married couple and we prepared a *spousal option trust* (aka disclaimer trust) for you, you do not need to take any steps: We structured your trusts to handle any estate tax eventuality. □

## Joint Ownership Does Not Replace Durable Power of Attorney

Contrary to popular belief, owning everything jointly with your spouse does not give you the power to manage *every* asset if your spouse is incapacitated. You generally would have access to jointly titled bank accounts and brokerage accounts, but you would still need to be designated under his/her Durable Power of Attorney to access other assets. For example, you could not sell, rent or lease jointly owned property. Even if you are the beneficiary of your spouse's IRA, you could not draw on it or manage it; those funds would be released to you only when your spouse passes away. For these reasons, spouses who want one another to access and manage all their assets should create Durable Powers of Attorney naming one another as agent, even if all assets are jointly owned. □



### Need Help with Taxes? Call Early!

C.P.A. Rebecca Maglio can assist you with your tax returns, even if you are not a client of our firm. Avoid the crunch and call early! Reach Ms. Maglio at:

[RMaglio@karpplaw.com](mailto:RMaglio@karpplaw.com)

Direct 561-472-6066

Boynton Bch. 561-752-4550/ext 109

Pt. St. Lucie 772-343-8411/ext 109

Toll Free 800-893-9911/ ext 109

## “Counselors at Law”

Attorneys Joseph Karp, Genny Bernstein, Adele Harris, Rachel Zetouni

We recently changed the title on our business cards from “Attorney At Law” to “Counselor At Law” to better reflect the professional services you should expect from us. Our attorneys must understand your family's dynamics—the good, bad and even the ugly—in order to provide you with intelligent, caring advice. Who gets along with whom? Whose marriage is stable or on the rocks? Are there people you would rather not provide for, and if you don't, what are the ramifications? Is there someone you want to provide for—but your spouse does not? Who is responsible with money, and who is not? It can be difficult to open up about personal matters, but they must be discussed in order to develop a successful estate plan for you. Remember, unless you give us express permission to discuss your matter with someone else, what you say in our office, stays in our office. That's an ironclad promise from the Counselors at Law of The Karp Law Firm. □



*The saddest aspect of life right now is that science gathers knowledge faster than society gathers wisdom. ~Isaac Asimov*



## Community and Kudos 2012



**Joseph Karp** was certified as a Florida Circuit Court Civil Mediator...Named a 2012 "SuperLawyer" by *SuperLawyers Magazine*... Named one of Florida's 2012 "Legal Elite" by *Florida Trend*...Quoted in a *South Florida Business Journal* article about retirement planning...Spoke about V.A. benefits at the 2012 Alzheimer's Community Care Educational Conference...Honored by the Alzheimer's Association SE Florida Chapter for 8 years of service on the board; he now joins the organization's Advisory Committee.



Alzheimer's Association outgoing Board Members Joseph Karp, Kathy Kalck

**Genny Bernstein** taught estate planning for the Florida Bar's elder law certification review course...was named one of Florida's 2012 "Legal Elite" by *Florida Trend*.



**Deeanna Farrington, MSW, CDP,** was appointed to the Advisory Board of the Alzheimer's Resource Center.



### Social Worker Workshops

Our law firm conducted informational workshops for over 150 social workers. Many thanks to *Abingdon in Port St. Lucie* and *The Classic in West Palm Beach* for opening their doors to our group and for the scrumptious breakfasts!

### Volunteering at Special Olympics



Khristina Iwasz at the finish line



L-R Genny Bernstein, Margaret Sajiun, Elizabeth Lebron, Khristina Iwasz, Joseph Karp

### 2012 Presentations

Retired Public Employees Assoc. of NY ▪ Fla. Assoc. of Women Lawyers ▪ Coral Lakes Brooklyn College Club ▪ U.S. Submarine Veterans ▪ Palm Isle Men's Golf Assoc. ▪ Century Village United Civic Organization ▪ Medicana Nursing & Rehab ▪ Alzheimer's Assoc. SE Florida Chapter. ▪ Boynton Beach Library ▪ Jewish War Veterans Post 819 ▪ Harbor Place Assisted Living. *To arrange a presentation for your group, call Debbie, 561-472-6062.*

### Memory Walk Fundraisers—West Palm Beach, Port St. Lucie



Janet Suarez, Cody & dog



L-R Audrey Yeager, Adele Harris, Julie McKeon, Jenny Ramirez, Liz Lebron, Deeanna Farrington, Cassandra Maher



L-R Adele Harris, Rachel Zetouni, Pat Vivirito, Gail Brown, Joseph Karp, Erica Poag, Sheldon Berman, Genny Bernstein

**Fido's Food Drive:** Our staff donated 250 pounds of pet food to the Peggy Adams Animal Rescue League in honor of Attorney Karp and Firm Administrator Audrey Yeager.

**Salvation Army Angel Tree Project:** Staff contributed gifts for five needy children at holiday time. Thank you to Audrey Yeager for coordinating this project with the Association of Legal Administrators.



L-R Elizabeth Lebron, Erica Poag and Jenny Ramirez with a shelter resident

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## Tips for Clients and Families

*Following these suggestions can save you and your family loads of time and trouble!*

**N**ame a trusted person as co-owner of your safe deposit box, so it can be accessed without your family seeking court authorization. When you pass away, your Durable Power of Attorney is no longer valid; thus, your agent will not have automatic access to your safe deposit box.

**I**f you hide valuables or cash around the house or stuff them in furniture, tell someone you trust where to find these items, so they are not overlooked or given away. In 2011 a Utah man found \$45,000 in the attic of his new home. He located the prior owner and gave it back, but your family may not be so lucky!

**W**e require written authorization to discuss your matter with anyone other than you. A blank authorization form can be found on our website under the resources tab; or send us your own letter notifying us to whom we can release information.

**A**lert us when your loved one passes away. It is a painful time, but frequently steps must be taken that are time sensitive, and we can help you with them. *A Karp Law Firm client and family are never alone!*

**I**f you use a name other than your legal name on your bank accounts and other assets - for example, Bill Smith instead of William Smith - be sure to tell us so we can include the alternate

name in your estate planning documents. This is imperative in order to avoid confusion.

**I**f a Florida resident passes away out of state - for example, at a hospice or a hospital outside Florida - make sure that when you report the death, you provide his/her Florida address. If an out-of-state address appears as the decedent's home address on the death certificate, and Florida homestead property or probate is involved, the death certificate will have to be corrected. That is an expensive and time-consuming bureaucratic process.

**D**o not hoard! Getting organized is a gift to your family. That said, do not pitch documents you may need in the future, such as those required to apply for Medicaid long-term care benefits. The required list is on our website. Tracking down discarded items can be a world-class frustration.

**D**o not name a personal representative, trustee or agent without making sure the person is willing and able to serve. Update as needed. We have seen many cases in which an incapacitated person's agent is deceased or disabled, requiring the courts to get involved.

**G**ive your health care agent a copy of your health care power of attorney, a list of medications you take and a list of your physicians. Keep them updated. □



*Have you ever noticed that anybody driving slower than you is an idiot, and anyone going faster than you is a maniac? ~ George Carlin*

## New POA Law & Divorce

Recent changes in Florida's Durable Power of Attorney law have left many people understandably confused, so let's clarify: Just **filing** for divorce, annulment or legal separation now nullifies the spouse's ability to serve as agent under the other's Durable Power of Attorney, unless the document states otherwise. This applies regardless of the date the document was executed.

Note: If your Durable Power of Attorney was signed **on or after Oct. 1, 2011**, a photocopy has as much legal validity as the original. This means that your financial institutions could conceivably honor a Durable Power of Attorney that names your spouse as your agent, even though your spouse is no longer eligible to serve because of your pending divorce. To make sure this does not happen, you should officially revoke the document; record the revocation in the public record; and give copies of the revocation to your financial institutions.

Your spouse's ability to act as your medical decision-maker under your Health Care Power of Attorney continues until there is an **actual** dissolution of marriage. Therefore, if you are in the process of divorcing and do not want your spouse to make these decisions for you, you must revoke your Health Care Power of Attorney, and establish a new one appointing a new agent. □

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### Unused Sky Miles?

Have you racked up a sky-high pile of frequent flyer miles? If you have more miles than time or inclination to use them, you may want to pass them on to loved ones. Unfortunately, unlike other types of assets, miles are often very difficult to pass on. The *New York Times* recently reported that only two airlines, American and Jet Blue, have clear-cut policies enabling frequent flyers to leave their miles to beneficiaries. Southwest does not permit it.

Other domestic airlines have policies that are at best ambiguous.

If you want to leave your miles to someone, you should contact the airline to discuss its guidelines. The best advice of all? Head to the airport and enjoy those miles yourself. *Bon voyage!* □



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### Uncle Sam's Gift

Uncle Sam has a new year's gift for you. Well, really for your loved ones. Effective Jan. 1, 2013, the annual gift tax exclusion is \$14,000 (it was \$13,000). This is the amount that you may give each year to as many individuals as you wish, without having to file a federal gift tax return. A married couple may double this amount. If your estate is taxable or likely to be taxable, using the gift tax exclusion is a good way to reduce your estate tax liability while putting more money into the hands of loved ones.

Note that if you pay a qualified educational institution or medical provider, there is no limit on how much you can give away without using up any of your \$5 million lifetime unified gift/estate tax exemption. However, you must pay the institution or medical provider *directly*. If you simply reimburse the person who paid the institution or medical provider, the reimbursement will be deducted from your lifetime exemption. □



*Evening news: Where they begin with Good Evening, and proceed to tell you why it isn't.*

*~Anonymous*

## “Ask The Legal Advocate”

Attorney Joseph Karp answers readers' questions about estate planning and elder law every Thursday in *The Palm Beach Post's* “Ask the Legal Advocate” feature. Have a question you would like considered for publication? Submit it to: [ask@karplaw.com](mailto:ask@karplaw.com).

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*Wisdom is the reward you get for a lifetime of listening when you'd have preferred to talk.*  
~ Doug Larson



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