

# Planning Points



The Karp Law Firm, P.A.

2010 Annual Newsletter

## Message From Mr. Karp

**W**e're marking the tenth anniversary of Y2K, when many feared the cyberworld would implode. It didn't, and except for the occasional annoying computer glitch, technology continues to enrich our lives in a myriad of ways. Yet today, anxiety about the future is again on the upswing. Check the TV news or your investment portfolio and it's easy to understand why. Still, I am steadfastly optimistic about the future, in no small part because my clients are.



Are my clients blind optimists? Hardly. Do they keep up with the news? Of course. They simply have two optimism-boosting weapons in their arsenal. First, experience: They've been up, down and back again. Second, they plan. Planning tamed the Y2K monster, and planning allows us to face the future without undue anxiety. Where worry can't grow, optimism can flourish. So let's plan, and let's stay hopeful that more peaceful, prosperous times await. I leave you with this quote from inventor Thomas Edison, a quintessential American optimist: *Be courageous. I have seen many depressions in business. Always America has emerged from these stronger and more prosperous. Be brave as your fathers before you. Have faith! Go forward!*

All the best,

## A 2010 Opportunity: Roth IRA Conversion

**T**he New Year marks the first time many investors can convert a Traditional IRA to a Roth IRA, and will present an outstanding opportunity to minimize future taxes, avoid required minimum distributions, and leave a tax-free legacy for your children and grandchildren. We are offering a free, one-hour program on Roth IRA conversion that will include these topics:

- Tax and non-tax advantages
- Disadvantages, and when you should NOT convert
- Reasons for converting sooner rather than later
- Ways a Roth conversion may affect your estate plan (will or trust)
- Strategies to make your conversion more profitable
- Costly mistakes to avoid when converting, including how to "undo" a conversion if your situation or the tax law changes
- The impact a Roth IRA conversion will have on your social security

**Schedule & instructions for  
requesting seats on next page**

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

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

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## **Roth IRA Conversion Workshop How To Request Seats**

**Seating is LIMITED and on a first-come, first-serve basis. Reservations are MANDATORY.  
Karp Law Firm Clients receive reservations preference.  
Sorry, we can admit only those with CONFIRMED reservations.**

### **Step One: Choose One Of These Sessions**

**Tues., February 9, 2010**  
5:30 pm to 6:30 pm  
Courtyard by Marriott  
1601 N. Congress Ave.  
Boynton Beach  
*Corner Gateway & Congress  
(Catalina Shopping Center)*

**Wed., February 10, 2010**  
5:30 pm to 6:30 pm  
Holiday Inn  
10120 S. Federal Highway  
Port St. Lucie  
*North of Port St. Lucie Blvd., east  
side of street*

**Thurs., February 11, 2010**  
5:30 pm to 6:30 pm  
Marriott  
4000 RCA Blvd.  
Palm Beach Gardens  
*Just east of I-95 and south of PGA  
Blvd.*

### **Step Two: Call the Reservations Hotline**

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

### **Step Three: Leave A Message With This Information**

1. The date and location of the session you wish to attend.
2. Your name, first and last. Please spell out.
3. The names, first and last, of any other attendees. Please spell out.
4. Please state if you, and any other attendees, are clients of The Karp Law Firm.
5. The total number of people attending.
6. A daytime phone number with area code.

**After we receive your seat request, we will call you to let you know if seats are available and if you have a confirmed reservation!**

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## **Boomers: Time To Think About YOU**

**B**aby Boomers have long been accused of thinking it's all about them, them, them. But the facts don't support that view. Many are still busy taking care of young children, supporting older children, helping their parents, working as hard as ever, or all of the above. Now, as the 76 million Boomers push into their 50s and 60s, it's time they devoted some attention to themselves. If you're a Boomer, you really need to start evaluating your retirement plans. What are your pension options? Maybe this is a good time to buy long-term care insurance, which is less expensive and easier to qualify for when you're younger and in good health. And start thinking about your estate planning. Recognize that estate planning is not about death only; it's the way to protect yourself, your family and your assets during your lifetime. Baby Boomers have been blessed perhaps more than any other generation in history. And surely the best is yet to come. But get busy. You're babies no more!

**EMAIL ALERT! In keeping with our efforts to help the environment by reducing paper consumption, we are using email whenever practical for routine communications. If you are a client who has yet to furnish us with your email address, please send the information to: UpdateMyInfo@karplaw.com. Also, make sure that your email settings are adjusted so that our emails do not end up in your spam box. When clients tell us they did not receive an email from us, 99% of the time that's the reason. The problem seems to occur most often with AOL and Yahoo.**

## Florida Medicaid: Look Out For the “Lookback”

The lookback period (the period of ineligibility for long-term care benefits created by asset transfers) is now **five years**. Therefore, you should start planning as soon as possible if you reasonably expect that you or your loved one will require a long-term nursing stay in the foreseeable future. Significant assets can be preserved even if your loved one is already in a nursing home; however, advance planning offers more options and generally allows for preservation of a greater portion of assets. Even if you’ve transferred assets, we may be able to help you obtain Medicaid eligibility sooner than the lookback period might otherwise permit. Remember, Medicare does not cover long-term care costs. With the cost of a private room in a nursing home averaging \$80,000 annually and a semi-private room \$72,000, most families will be impoverished in no time.\* So don’t delay! Call The Karp Law Firm for assistance.

\*Metlife Mature Market Survey of Long-Term Care Costs



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### Increased FDIC Coverage Extended

The FDIC has extended increased coverage of bank accounts for another four years. FDIC insurance is slated to remain at \$250,000 per depositor, per institution through Dec. 31, 2013, rather than reverting to \$100,000 as originally anticipated.

You need to pay particular attention to FDIC rules if your account is titled in the name of your revocable trust. As we indicated in last year’s newsletter, for revocable trusts, the \$250,000 coverage is per beneficiary *on a proportionate basis*. To illustrate, let’s say you have \$1,250,000 in a revocable trust at Bank A, and five beneficiaries in your trust. If each beneficiary gets an equal share (\$250,000), then the full \$1,250,000 in your trust is protected. But if one beneficiary gets 50% of your assets (\$625,000), that leaves \$375,000 of that share unprotected (\$625,000 - \$250,000). FDIC protection would thus cover only \$875,000 of your trust assets (\$1,250,000 - \$375,000) at Bank A. Note: The same rules apply to “Payable on Death” or “In Trust For” accounts.

### Online Resources

In addition to our annual *Planning Points*, we provide online, current information on legal, financial, family, tax and health issues; updates about veterans benefits and other government programs, special needs and disability planning; alerts to community events; even book reviews. You do not need to be a client of our firm to access this information. We invite you to check out these frequently updated resources:

- Our blog - [www.karplaw.blogspot.com](http://www.karplaw.blogspot.com)
- Twitter - estate planning:  
<http://twitter.com/FloridaTrustLaw>
- Twitter - long-term care planning:  
<http://twitter.com/FlaMedAtty>
- Our website - [www.karplaw.com](http://www.karplaw.com)
- Monthly E-newsletter - To subscribe, log on to [www.karplaw.com](http://www.karplaw.com) and follow the link to subscribe (at the top of the page)

**If we could sell our experiences for what they cost us, we'd all be millionaires.**

*Abigail Van Buren*

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### Tax Help Available

Rebecca Maglio, CPA, is available to assist with your income tax returns. You do not need to be a client to use her services. To schedule an appointment, please phone our office or e-mail [rmaglio@karplaw.com](mailto:rmaglio@karplaw.com).



**The best measure of a man's honesty isn't his income tax return.  
It's the zero adjust on his bathroom scale. - Arthur C. Clarke**

## Living Wills *Do* Matter!



When columnist Charles Krauthammer opined that living wills “don’t matter,” he ignited a firestorm of disagreement from citizens and the medical and legal communities. Among those taking issue with his view was Attorney Karp, whose letter to the editor was published Sept. 9 in the *Palm Beach Post*. Read on:

*Charles Krauthammer did a disservice with his claim that living wills are superfluous, largely and rightfully ignored by families and doctors. (“Honesty in death counseling,” Aug. 26). The world on which he based his conclusion is overly optimistic and overly jaundiced. It bears little resemblance to the real world the rest of us inhabit, where a living will has great value and legal standing.*

*Why overly optimistic? First, Mr. Krauthammer claims that if he is ever in the ICU, his doctors will simply ask him what he wants “unless I’m comatose or demented.” He seems to think that those are unlikely scenarios, but the Alzheimer’s Association reports that the disease is the sixth-leading cause of death among people over 65. Factor this into all the other dementias associated with aging and the other possible causes of death, along with greater longevity, and you’d have to be a betting man to expect that you’ll be capable of holding a meaningful conversation in the ICU.*

*Why overly jaundiced? First, Mr. Krauthammer claims that people don’t really know what they’ll want at the end, making the living will pointless. It’s true*

*that no mortal can predict how he’ll feel when his time comes. That said, most adults have core religious and moral beliefs that govern their lives, and that they wish to govern their deaths. With thoughtful legal guidance and accurate medical information, those beliefs can and should be documented in a valid living will. In my legal practice, I find clients derive great peace of mind from knowing their living wills are going to be respected.*

*Second, Mr. Krauthammer believes a living will’s only value is to protect you from family who would hasten your death for financial gain. After counseling thousands of families, I can tell you such situations are rare. The vast majority of families sincerely want to follow their loved one’s last wishes. A living will provides them with guidance, and with reassurance that they are making the right choices. In cases where family members differ, the living will can smooth over conflict and promote family harmony.*

*I urge readers to reject Mr. Krauthammer’s cynicism. His advice on living wills is grounded neither in the law nor on the life’s experiences most of us share.*

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## The (Not Very) Merry-Go-Round

Adele Small Harris

Taxpayers and estate planning attorneys alike have been riding the federal estate tax merry-go-round since 2001, when the Tax Reconciliation Act was enacted. It’s still a wild ride. Here are the dizzying facts at this writing: The estate tax was slated to temporarily disappear in 2010. But with the economy ailing, and tax supporters claiming the tax is vital to prevent development of family aristocracies, the House voted on Dec. 4 to make the estate tax permanent, with a year 2010 exclusion of \$3.5 million. The Senate voted it down, but will revisit the issue in the new year. If the Senate passes the bill, the tax could be made retroactive to Jan. 1, 2010. As for 2011, the exclusion was slated to revert to \$1 million at that time. We do not know if this will come to pass; it, too, is in Congress’ hands.

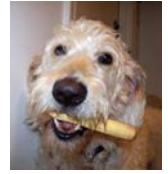


This ambiguous situation greatly complicates the estate planning process for those with significant assets. Even if your assets have been diminished by the recession, you could find your estate taxable in 2010. This would require you to put tax planning strategies in place that were previously unnecessary, to enable you to pass as much tax-free money as possible to loved ones. Please call us for advice about how to hang on while this tax “merry”-go-round keeps turning!

**Patience is something you admire in the driver behind you,  
but not in the one ahead. - Bill McGlashen**

## Pets: A Joy And Good For You, Too

The psychological benefits of pet ownership are well documented. Senior communities increasingly permit residents to keep cats and small dogs. Why not visit your local animal shelter to adopt a pet? Many older dogs are housebroken and well-trained. At right, Exhibit A: Lucy, a three-year-old Lab-poodle mix the Karp family adopted from Palm Beach County Animal Care and Control. Lucy sits, stays, and best of all, she's an expert cuddler!



## Protect Your Child from Suspicion

The son of the late socialite Brooke Astor is following in Bernie Madoff's footsteps. To prison. While nowhere on the scale of Madoff's crimes, Anthony Marshall's actions were despicable in their own way: He stole from his mother while she was in the late stages of Alzheimer's Disease. A New York jury found Marshall guilty of several crimes, including persuading his mother to sign a new will favorable to him when she had no capacity to understand her actions. Senior advocates hope his conviction spurs law enforcement to more vigorously pursue this type of crime against the elderly. Congress recognizes the problem, too: both versions of the health reform act beef up protections for seniors. Many states are also taking action to thwart financial elder abuse. New York, for example, passed a tougher power of attorney law in 2009.

But let's look at this issue from the opposite angle. Suppose you **want** your child to access your assets? Perhaps you've established an estate-tax reduction



plan, or certain long-term care planning strategies, that require your loved one to draw down your funds. Or you just want your child to manage your assets. With individuals and institutions increasingly vigilant to financial abuse of the elderly, you'll want to be sure your child can never be accused of wrongdoing.

So how can you convince the world of your child's integrity? There are several steps you should take. First, do not delay setting up your estate plan: Do it when there can be no doubt about your mental capacity. Second, all your documents, like your trust, power of attorney and will, should clearly and unambiguously reflect your intentions. Some of our clients, as part of their planning, need to include specific, precise language authorizing a child to make gifts to himself/herself and others. Without appropriate language, such gifting would be considered unauthorized and criminal in nature. An experienced estate planning/elder law attorney is your best ally... and your child's, too.

**Do you ever get the feeling that the only reason we have elections is to find out if the polls were right? - Robert Orben**

## Is Your Estate Plan "Retro"?



Imagine if we were still wearing the same clothes we wore in the Flower Power '60s. We'd be walking around in tie-dyed shirts, platform shoes and love beads, and probably struggling to zip up those vintage bell bottoms. A retro wardrobe can be fashionable -- but your estate plan? No way! Your estate plan is a living thing that must change with the times. Laws change, children marry or divorce, trustees and fiduciaries move away or pass away, finances and health circumstances change. For these reasons, it's vital to review your estate plan periodically. That's why our law firm offers clients a free review every three years, or whenever you experience significant changes in your financial, family or health circumstances. Please be sure to contact us if it's time for your review, so we can schedule your appointment. Working together, we'll make sure your estate plan stays in fashion!

**A positive thinker does not refuse to recognize the negatives; he refuses to dwell on them.**  
*Norman Vincent Peale*



## Your Life Insurance Policy: A Hidden Asset?

If like many Americans these days you need some extra cash, you may not have to look any further than your life insurance policy. Consider the following scenarios:

*Stan is 83 and has no children. His late wife was beneficiary of his paid-up whole life insurance policy. Obviously he no longer needs insurance to protect his wife.*

*Glen's grown daughter is financially successful and the beneficiary of a life insurance policy he bought when she was a toddler. At age 70, he can't keep up the premiums and wants to tap the policy's cash value before it lapses.*

*Janet, 78, insured her life 10 years ago, intending for the policy proceeds to pay estate taxes when she passed on. The policy is no longer necessary because her portfolio has shrunk and her estate is no longer taxable. She'd like to cash in the policy and use the money for expenses.*

If your situation resembles any of the above, selling your policy to a third party -- a so-called "life settlement" -- may be a viable option. The value of your policy is based on several factors, including your age, health, life expectancy, type of policy, whether any premiums are still owed, size of death benefit, etc. Obviously, the older you are, the more the policy is worth. Depending on all these factors, selling to a third party may generate more money than you would receive if you surrendered the policy to the insurance company.



As with any financial service, you should exercise an abundance of caution when evaluating whether a life settlement is appropriate for you. A few basics to keep in mind:

- Contact the insurance company to determine the policy's cash surrender value, if any, so you can be sure that you are getting a better deal from a third party.
- Find out if the insurance company offers accelerated death benefits, which permit you to withdraw only a portion of the death benefit and leave the remainder for your beneficiaries. Depending on your circumstances, this may be a better option.
- Keep in mind that the proceeds may be taxable.
- Find out what fees will be charged.
- Shop around. There can be significant differences among payouts offered by life settlement companies.
- Fortunately, in Florida the life settlement industry is regulated. You can verify a company's license by visiting [www.fldfs.com](http://www.fldfs.com), or by calling the Florida Consumer Helpline at 800-342-2762.

To investigate whether selling your policy to a third party can be helpful in your particular circumstances, contact Steve Levine, president of Karp Financial Services, at 877-319-1130. He can help you analyze your policy and situation to determine your best options.

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## Selecting a Trustee for A Special Needs Trust

Selecting a trustee(s) for a child's Special Needs Trust can present a serious dilemma for parents. Sam and Linda's case is typical: They have two children, Blake, 15, and Tiffany, 25. Blake has Downs Syndrome and will need continuing care and support after his parents are gone. Sam and Linda have been properly advised to set up a Special Needs Trust, a legal arrangement that will provide lifetime support for Blake without jeopardizing his access to his rightful government benefits. But when it comes to choosing a trustee, they're stumped. Tiffany clearly loves her brother, but with a busy career and her own family, they worry that serving as trustee might be too stressful her. They also think that despite her good intentions, prudently managing the trust assets may be beyond her abilities. Moreover, Sam and Linda know that a Special Needs Trust comes under special scrutiny and is subject to extra-stringent reporting requirements. Administering the trust is no cakewalk.



What to do? In these situations, we usually recommend that the family hire a professional trustee to serve alongside one or more family members. In the case above, a professional trustee would be paid out of trust funds

and would be responsible for managing and investing the assets in Blake's Special Needs Trust. Tiffany would serve as co-trustee, providing oversight and looking out for the needs of her brother. If you are facing similar issues or considering the benefits of a Special Needs Trust, please call us for assistance.

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## V.A. Benefits and The Medicaid Time Bomb

Genny Bernstein

If you are an elderly or disabled veteran struggling to pay assisted living, home care, or nursing home expenses, you may be eligible for V.A. Aid and Attendance benefits. You do not need to have a service-related disability to qualify, although you must meet certain asset, income and medical expense criteria. Veterans' widows may also be eligible.



Many veterans who apply for Aid and Attendance benefits will need to apply for Medicaid long-term care benefits at a later date. Typically, that's when the aptly named "Medicaid Time Bomb" detonates. It's then that the unsuspecting veteran discovers that the asset transfers that helped him **qualify** for Veterans benefits, now **disqualify** him from receiving Medicaid benefits. Small wonder the average veteran doesn't fully grasp how these programs interrelate: Each is administered by a different agency with its own eligibility criteria. Moreover, the rules for each program are complex and change seemingly at the speed of light. Make sure to consult with our law firm before you apply for Veterans benefits and Medicaid benefits! We can assist you in securing all the benefits to which you are legally entitled. We stay current on the law, and all our attorneys are certified by the U.S. Department of Veterans Affairs to give benefits advice.

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## Kudos and Community

**GENNY BERNSTEIN** earned Florida Bar Certification in Elder Law, joining an elite group of just 81 Florida attorneys to achieve this credential.

### JOSEPH KARP

- Was named to *Florida Trend* magazine's 2009 Legal Elite.
- Was elected Vice-Chair of the Board of Directors of the Alzheimer's Association SE Florida Chapter.
- Was selected Chairperson of the Florida Bar Elder Law Section Committee on Financial Products, whose mission is to protect seniors from the marketing of fraudulent financial products.
- Has been asked to speak about elder law to approximately 1,000 attorneys and judges at the annual certification review course of the Florida Bar Family Law Section. This is the first time elder law is being included as a component in the group's certification curriculum.
- Had the pleasure of presenting an award at the American Red Cross Palm Beach Chapter's *Real Heroes* Luncheon. Mr. Karp is a Red Cross Lifetime Legacy Fellow.
- Was guest panelist at the Caregiver Appreciation Event sponsored by the Memory Disorder Center of St. Mary's Hospital, West Palm Beach.

**ADELE HARRIS** taught a probate course for paralegals for the National Business Institute.

**ALZHEIMER'S ASSOCIATION MEMORY WALKS** We have participated for many years in this wonderful event. "Karp's Kommandos" turned out to raise funds for Alzheimer's research at the 2009 events, in Miami, Hollywood, West Palm Beach and Port St. Lucie. The Karp Law Firm also sponsored the Alzheimer's Association's first Student Essay Contest in 2009. Dwyer High School student Cecelia Britton won the contest with her essay about the impact of Alzheimer's Disease on her family. Mr. Karp presented Cecilia with a \$500 college scholarship.



Our attorneys and staff will of course be on hand (or, ahem, on foot) for the 2010 walks, scheduled for April 10 in West Palm Beach and April 24 in Port St. Lucie. To join our team, or to donate, please call 1-888-959-WALK, or log on to [www.memorywalks.com](http://www.memorywalks.com).

