Estate Tax on the Chopping Block?

By Sarah Ruef-Lindquist, JD, CTFA

For many years now, there has been a tax on wealth you gave a way, whether during lifetime, or at death, with some exemptions and thresholds…but the House of Representative HR 1 Tax Cuts and Jobs Act proposed in early November wants to change all of that.

Sarah Ruef-Lindquist, JD, CTFA

Currently, you can gift or leave at the time of death $5.49M without tax; the proposed legislation would double that amount, and phase it out entirely after 2023, for gifts made through estates. The lifetime limit on gifts free of tax would remain the same.

That doesn't impact about 99% of the US population. In Maine, estates in excess of $5.49M are by far the exception to the rule. However it would impact much of the population if the so called "step-up in basis" were repealed along with the estate tax.

Essentially, the consolation prize for having an estate tax of up to 40% was that heirs were able to use the date of death value for their basis when selling inherited stock. This is almost always preferable to using the decedent's cost basis which is often much lower, resulting in a larger capital gains tax when the stock is ultimately sold.

The good news is that the "step-up-in-basis" provision is not slated for repeal in HR 1. What the final language will

ultimately be for tax reform is unknown, but for those of us who deal with the issue of planning, it’s nice to think that this part of a familiar planning strategy might not be on the legislative chopping block.
For many years, people in the process of planning for their estates, and whether to give children certain assets during life or at death has involved consideration of whether you wanted to give the gift of low basis (also known as “carryover basis” which I call affectionately call “the gift that keeps on taking” because of the impact on capital gains) or leave an asset at death to allow for stepped-up basis to accompany those assets. Many planning decisions have been made over the years with that structure in mind. If it changes, there could be some folks going back to the drawing board on their estate plans.

Sarah Ruef-Lindquist Takes Part in Panel Discussion at Maine Planned Giving Council Meeting

Sarah Ruef-Lindquist, JD, CTFA

Sarah Ruef-Lindquist, JD, CTFA, a financial planner at Allen Insurance and Financial in Camden, recently participated in a panel discussion at the Maine Planned Giving Council's conference held in South Portland attended by approximately 150 professionals involved in the gift planning industry.

Attendees included development professionals and executives from non-profit organizations, and professionals who advise donors in estate or financial planning, including attorneys and accountants, from across the state.

Ruef-Lindquist has had a role in planned giving as an attorney, former trust officer and philanthropic advisor and consultant to non-profits across New England. She previously served as vice president for Southern Maine of the Maine Community Foundation and CEO of the Maine Women's Fund.

Along with Kristen Farnham, Vice President of Development at Spurwink and Sarah McPartland Good, Director of Planning Giving at the University of Maine Foundation, Ruef-Lindquist led more than 40 people in a discussion about marketing planned giving, noting that one size does not fit every organization.

Ruef-Lindquist and the other panelists provided examples from organizations large and small, including universities, colleges, land trusts, social service organizations and others, demonstrating how to best reach those whose passions and loyalties to the mission of a particular organization compel them to consider making gifts through their planning to them.

Planned gifts often support building the long-term funds of organizations, including their endowment, and serve as a means of providing financial sustainability for the long term. Because of the projected intergenerational transfer of a vast amount of wealth occurring now in the U.S., the topic is of great interest to organizations and the advisors working with their donors.

Christopher Beaulieu Joins Our Financial Planning Division

Christopher Beaulieu

Christopher Beaulieu of Waterville has joined Allen Insurance and Financial as a broker-dealer assistant. He is the third generation of his family to work for the company's financial planning division.

Beaulieu is a graduate of Belfast Area High School and a student at the University of Maine at Augusta. His father Brian Beaulieu is a financial planner with Allen Insurance and Financial and is based in Belfast. His grandfather, Gary Beaulieu, who retired in 2000, was the first financial planner working for what was then Allen Agency/Allen Financial Group.

At the Allen Insurance and Financial office at 18 Common St. in Waterville, Christopher Beaulieu is working as an assistant to Norm Hart, financial planner. Allen Insurance and Financial opened its Waterville office in 2016.

"I have always believed in helping others, and here at Allen I will be given many opportunities to do just that," said Beaulieu. "I am proud to follow in the footsteps of my father and grandfather. That makes my work here even more gratifying."

Outside the office, Beaulieu enjoys playing soccer, running and biking as well as spending time camping, hiking, hunting and fishing in the Maine outdoors.

Good News for Maine Non Profit Organizations

By Sarah Ruef-Lindquist

Sarah Ruef-
Lindquist,
JD, CTFA

According to **Giving USA 2017**, philanthropy grew to a record $390.05 billion in 2016 to U.S. charitable organizations, 2.7% more than 2015, another record-setting year. It may have helped that personal consumption and disposable income were up by almost 4%, and that the S&P ended the year 9.5% higher than it began, despite a politically tumultuous year. The annual report is an ongoing collaboration of the Giving USA Foundation, the Giving Institute and the Lily Family School of Philanthropy.

Here in Maine, we don't have the 2016 data just yet, but the most recent Giving in Maine 2017 Report shows that individual giving in 2014 was over $451 million, up about 4% from the previous year.

Many years, Maine falls into the bottom 3 or 4 states in terms of total annual charitable giving. But Mainers are generous when it comes to making gifts to charities through their estates.

Maybe they can't afford to share more of their wealth while they are alive, but when they're gone, they remember their favorite community organizations as if they were a member of the family.

Looking deeper into the data over the past 7 annual reports, Mainers have giving almost $800 million to charity through their estates or bequests, an average of $100million per year, according to the Maine Philanthropy Center's reports. While the dollars may be fewer in comparison to many other states, the average frequency of estates making gifts to charity is often higher. Data collected by the Maine Philanthropy Center has shown that 27% of taxable estates in Maine – versus 20% nationally – make charitable gifts. That's a significant number, and speaks to the thoughtful generosity of people who care deeply about their communities, making gifts when it makes sense for them. That's good news for Maine non-profits.

Newsletter for Non-Profits, September 2017

E-Newsletter for Non-Profits September 2017

We're pleased to share the September 2017 edition of our Non-Profit Navigator. Click here to read it (PDF, new window).
Topics in this edition include Giving Trends, Directors and Officers Liability coverage; the Employee Retirement Income Security Act (ERISA).
If you would like to receive this newsletter by email, please contact Sarah Ruef-Lindquist at srueflindquist@allenfg.com.

You’ve got a Digital Life…but What About Your Digital Afterlife?

By Sarah Ruef-Lindquist, JD, CTFA

Sarah Ruef-Lindquist, JD, CTFA

When you are no longer able to manage your own on-line accounts, or after you are gone, what do you want to happen with them? Do you want a perpetual reminder to all of your Facebook friends that it’s your birthday, or a reminder of how long you have been Facebook “friends”? Do you want your account deleted? Do you want anyone to have access to your GoogleDocs, where you have written your unpublished memoir, or should it be deleted forever? How about all your photographs in Picasa? If something were to happen tomorrow to render you incapacitated – or worse – what would happen to your virtual life, including your on-line financial accounts?

Most internet account providers, like Facebook and Google, have “terms of service” that can prevent anyone but you from ever accessing your account (without your user name and password, of course). Their terms include deleting or suspending in perpetuity any data or information there. Is this really what you want?

While not the law in Maine as of June 2017, 35 states have adopted some form of the Revised Uniform Fiduciary Access to Digital Assets law (“RUFADA”). The goal of RUFADA is to respect a user’s intent as reflected in online account options and dispositive documents like a will, trust or power of attorney. The law allows those named in these documents to manage digital assets and requires providers to honor their property documented authority to do so.

Until the law is adopted and applies to Maine residents, it is important to carefully review each of the terms of service agreements for your digital accounts, and provide what should happen in case of your incapacity or death, and if possible, name a trusted person you want to have access to and manage your account for you. Your legal or financial advisor can help you decide who that person should be for each such account.

In the case of Google’s Gmail, you can “Add a delegate” to your account which will allow someone you appoint to manage and even send emails on your behalf. For Facebook, ‘Legacy Contact’ will allow you to choose a family member or close friend to care for your account if something happens to you. You can also give them permission to download the contents of your Facebook page.

Failure to make these elections and designations can result in deletion of accounts, and/or long waits for family and heirs to access your digital accounts and assets. Be proactive while you can, and don’t forget to ask your advisor for help.

This article first appeared at PenBayPilot.com.

Good News for Maine Non-Profits

By Sarah Ruef-Lindquist

Sarah Ruef-
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JD, CTFA

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Weddings Bells…Hope for the Best, Plan for the Worst? The Weaponization of Debt and Assets in Divorce

By [Sarah Ruef-Lindquist](), JD, CTFA

Sarah Ruef-Lindquist, JD, CTFA

Family violence, domestic abuse – those phrases evoke images of bruises, physical scars, broken limbs.
But there is another aspect of abuse, and it has an economic and financial face.
There's been a lot in the news lately about financial abuse of elders, and rightly so.

The vulnerability of our aging population, combined with the ease of attaining access to account information, credit and assets via internet technology can be a dangerous combination in the wrong hands.

Financial abuse happens in domestic and marital situations as well, and often it is difficult, if not impossible, to unravel and restore the economic health of the abused partner once the abuse is discovered.

In addition to exercising control over a spouse's access to money, or damaging their credit, making them financially reliant upon the abusing spouse, a spouse can simply harm the credit or reduce their assets in order to make life miserable for their spouse before or during a divorce. Sometimes the abuser benefits financially in the process.

Here's a scenario: Prior to communicating plans to seek a divorce, a spouse forges the other spouse's signature on loan documents, and spends the money on travel, dining and entertainment of themselves and others.

The spouse could buy a car on credit and incur debt on jointly held credit cards. That spouse then files for divorce, claiming the other party should be responsible for half (or more) of the debt, from which they did not benefit.

While there are remedies for fraudulent conveyances and other types of misappropriation of assets, often the upheaval and emotionally draining process of divorce can distract from these options and add cost and delay to already complex litigation, and the non-abusing party ends up paying much more – or losing more – than their share.

In her article Financial Intimate Partner Violence: When Assets and Transactions Become Weapons, 22:2 Domestic Violence Report 17 (Dec./Jan. 2017) Hastings College of Law professor Jo Carrillo calls for state law domestic violence prevention reform to ensure that "survivors should not have to fund their own harm, and perpetrators should not benefit from their wrongdoing."

She argues that just because there are no signs of physical or emotional abuse in a marriage doesn't mean there hasn't been financial abuse, which she terms 'economic' or 'financial interpersonal violence'.

She cited a case where one spouse mortgaged jointly held property out from underneath the other by forgery, and spent the proceeds, leaving the marital asset fully encumbered, without any equity.

This is just one example that isn't necessarily the kind of abuse that manifests in a pattern of controlling behavior, like restricting access to credit or money to render the other person dependent, but rather using credit, assets and money as weapons to harm the other party in the process of dissolution of a marriage.

How can a spouse protect themselves from this kind of situation?

One way is to maintain separate financial lives in a marriage.

Each person has his or her own checking account into which their earning are deposited, and then a household account is used to which each contributes in order to pay shared expenses.

Each person has his or her own retirement account by law, but also maintains separate investment accounts, and credit card accounts.

Deposit and investment accounts can be made "payable on death" by one spouse to the other, rather than held jointly, to ease the access of the other upon death if consistent with advice on estate plans, but joint access is not possible during lifetime.

The advantages to this kind of approach are two-fold; never is more than one's share for monthly expenses at risk, but one retains control and knowledge of one's resources and liabilities throughout life, so there are few, if any, surprises when something unexpected happens, like a divorce or death.

If have joint accounts of any kind – deposit, investment or credit – think critically about where you would be if the worst happened: if you were subjected to any level of financial abuse. Consider whether separate financial lives could help the outcome, “just in case” the worst happens.

This article first appeared at [PenBayPilot.com]

Newsletter for Non-Profits, May 2017

Non-Profit
Navigator
May 2017

We’re pleased to share the May 2017 edition of our Non-Profit Navigator. Click here to read it (PDF, new window).
Topics in this edition include Planned Giving and Understanding Employee Benefits Liability.
If you would like to receive this newsletter by email, please contact Sarah Ruef-Lindquist at srueflindquist@allenfg.com.

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5 Tips for Larger and Planned

Gifts

From Sarah Ruef-Lindquist

Sarah Ruef-Lindquist, JD, CTFA

The following are organizational and operational “standards” that can be appealing to foundations, donors & their advisors. If you have others you would be willing to share, please email me and let us know what they are.

1. Make your board-adopted Gift Acceptance Policy available online and on paper to professional advisors and their donors.

Professional advisors (attorneys, accountants, financial advisors, trust officers) play an important role in planned giving: They will advise their client about – and often author – the terms of any planned gift to the charity or charities included in an estate plan.

Before they can advise their client or craft the language, they must know the terms of your organizations Gift Acceptance Policy if the gift is restricted, not cash nor readily marketable securities. When your organizations adopts such a policy or approves any substantial amendments, provide that information to the professional advisors with whom your donors may have a relationship; this would include (at a minimum) the estate planning attorneys, financial planners, bank trust officers and accounting professionals in your vicinity. If you need help determining who they are, ask a member of the board of your local planned giving council or estate planning council.

2. Make your duly board-adopted Investment and Spending Policies available online and on paper to Professional Advisors and their donors.

In considering whether to make a planned gift to your organization that would become part of the organization’s endowment, a donor and their professional advisor will examine the way in which the organization invests its fund and the board’s policy on spending such funds.

An investment policy should reflect the goals of the organization in having the endowment, and the risk tolerance, benchmarks and performance review mechanisms to be used. Similarly, a spending policy will show a donor just exactly what amount will be available to support the organization on an annual basis in the future, or how that amount will be calculated year-to-year.

3. Don’t let your organization’s leadership think of endowments as a luxury.

- Endowments are a necessity for sustainability and express the importance of your organization’s mission and leadership’s commitment to it.
- From a donor’s perspective, having an endowment may give them an opportunity to create a legacy that will, with an appropriate spending policy, assure them their gift will support the mission for generations to come.
- It also gives donors a choice for how to make a substantial gift, and who doesn’t like choices when making a big decision?
- It communicates that your organization has deliberately contemplated the future and is planning and working towards providing for that future. This conveys the organizations strong sense of its own worth in the landscape of charity and philanthropy, and the paramount

importance of its mission.

4. Optimize your organization's presence and appeal on the landscape of charities in your area or mission area of interest.

Consider adopting standards and practices for organizations such as Guiding Principles and Practices for Nonprofit Excellence in Maine published by the Maine Association of Non Profits in 2007 available at www.nonprofitmaine.org, and Standards of Practice for the Model Gift Planner from www.charitablegiftplanners.org, and similar standards found in the Donor Bill of Rights of the Association of Fundraising Professionals, available at www.afpnet.org, that show all types of donors, including corporations and foundations, that your organization is functioning at an optimal level of accountability.

5. Scan your organization's 501(c)(3) letter and make it available in the development or history area of your web site.

This makes it almost as easy as possible for advisors and donors to know you have the status required for deductibility of gifts for income, estate or gift tax purposes. The letter is generally available on-line at www.guidestar.org, but placing it on your site saves the professional advisor the trouble of going to a second site after yours; they will be well-advised to have a copy for their client file.