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## The Andersen Firm, A Professional Corporation, Attorneys At Law



### Message from the President



Spend a few minutes with us and you'll soon realize we practice law with a unique focus on extra quality and client-centered service. We build lasting long-term relationships. We'll get to know you and your goals. Then, we'll use our legal knowledge and experience to help you.

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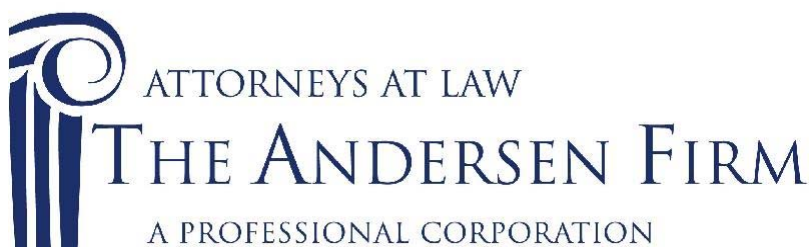
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## The State Of Estates News

2nd Quarter 2010

### Quote of the Quarter:

'I have wondered at times about what the Ten Commandments would have looked like if Moses had run them through the U.S. Congress.' - Ronald Reagan

### Estate Tax Reform Update:

The House has still not addressed the issue of estate tax reform. However, Rep. Sander Levin as acting chairman of the House Ways and Means Committee, replacing embattled Rep. Rangel, has commented that he would begin to work towards retroactively reinstating the federal estate tax that expired on Dec. 31<sup>st</sup>, 2009. Levin is quoted as saying "The lapse of the (estate tax) levy and a complicated capital gains tax that replaced the estate levy is making it hard for families to plan their affairs." Rep. Levin went on to say, "The sooner we do it the better."



Levin has been a supporter of extending the 2009 estate tax credits and tax rates (\$3.5 million per spouse and a 45% tax rate) into 2010 and going forward. Levin hedged on whether he would support a lower estate tax rate and higher exemption amount.

Rep. Levin has suggested that a possible solution would be to

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## **PRACTICE AREAS:**

### **Estate Planning:**

At The Andersen Firm, we have planned for a vast array of estates ranging in size from a few hundred thousand dollars to a hundred million dollars all the while realizing each specific case is different and requires specialized

allow heirs to choose to pay the capital gains tax that replaced the estate tax if that is more beneficial tax wise. "We have to write it so we don't disrupt estate planning in this country," he said.

## **Healthcare Reform Update:**

On March 21<sup>st</sup>, the House passed H.R. 3590 aka Patient Protection and Affordable Care Act. President Obama signed the bill into law on March 23<sup>rd</sup>. This bill drastically overhauls the nation's healthcare system and is expected to cost \$940B. The bill also has \$438B in new taxes to help offset some of the costs. The new taxes and fees will be shouldered by insurers, businesses and individuals. The tax increases that specifically target higher income earners include:

- 1) A 3.8% "Medicare Contribution Tax" on unearned income for individuals earning more than \$200,000 per year and \$250,000 for joint filer. Unearned income includes: investments and interest, dividends, rental income, royalty income, net gains from the sale of real property and other passive income. Annuity owners will only get taxed on distributions, not on the accumulated value. It is important to note that the earnings amounts (\$200k & \$250k) are NOT indexed for inflation so more and more taxpayers will be taxed each year.
- 2) A 0.9% surtax on Hospital Insurance (HI) payroll taxes for individuals earning \$200,000 and joint filers making \$250,000. Again these income amounts are NOT indexed for inflation.
- 3) A 40% nondeductible excise tax on individuals with health insurance plans costing more than \$8,500 and \$23,000 for families annually.

These new taxes will be in addition to increases in the income and capital gains taxes that are expected to come in 2011.

H.R. 3590 significantly changes the health insurance landscape in America and will be funded, in part, by "high income" individuals and families. Also, be aware of the increases in the income and capital gains taxes looming on the horizon.

## **Revised Rules Regarding GRATs:**

On March 17, 2010, the House Ways and Means Committee approved H.R. 4849 which imposes additional requirements on Grantor Retained Annuity Trusts (GRATs):

attention.

**Estate Settlement:**

The process of settling an estate can be difficult and emotionally painful for the family and loved ones of the deceased. It is our goal at The Andersen Firm to ensure that the process be handled with compassion, expedience, professionalism and expertise, while protecting the rights of all parties involved.

**Estate Litigation:**

Our lawyers are not only skilled at handling cases involving estate and trust disputes, they draw on a thorough knowledge base of the specific procedures surrounding these issues. The Andersen Firm can efficiently take each case through to completion realizing that full blown litigation often can be avoided if we work diligently to come to resolution.

**Probate:**

If the circumstances surrounding a client's estate require probate, or if a client comes to us in need of probate assistance, our attorneys offer extensive experience in handling the processes and legalities involved.

**Asset Protection:**

For some, putting an Asset Protection Plan in place is advisable in order to attempt to remove the economic incentive to be sued and also to try and increase the ability to force an early settlement in the event a suit is filed.

**MAIL AWAY ESTATE PLANS:**

First, GRATs must have a ten (10) year minimum.

Second, the fixed annuity payments, when determined on an annual basis, do not decrease relative to any prior year during the first 10 years of the term.

Third, the remainder interest has to have a value greater than zero (0) at the time of the transfer.

Congressman Kevin Brady (R-TX) offered an amendment to strike the GRAT provision from H.R. 4849. Rep. Brady used the time to argue for substantive estate tax relief to help families and small business but his amendment was rejected on a voice vote.

**Foreign Accounts Targeted:**

In an effort to get full disclosure on foreign accounts the IRS is requiring all U.S. taxpayers to start reporting any offshore accounts totaling more than \$50,000 on their 2011 tax returns. This is in addition to filing required Form 90-22.1 with the Treasury for foreign accounts totaling more than \$10,000.

Failure to report foreign accounts can result in hefty fines as high as \$50,000 for each account held offshore. In addition, if it is found that more than \$5,000 of income from foreign assets is omitted from a tax return the statute of limitations is extended to 6 years and is effective for all open tax years.

Foreign banks are affected by the new rules as well and are required to give the IRS detailed information about their U.S. account holders or face a 30% tax on income from U.S. assets.

**Inherited IRAs Are Not Protected:**

Recent district court rulings in both Texas and Florida have denied asset protection for inherited IRAs. In one specific case (Chilton, D.C., Texas) a daughter who inherited her mother's IRA and then filed for bankruptcy was ordered to liquidate the account (and pay the income tax) to pay her creditors.

In the courts' view only the owners of the qualified plan were afforded protection from bankruptcy creditors since inherited IRAs remain in the name of the original owner and the law specifically prohibits rollovers of inherited IRAs. The court rulings will apply to ALL types of inherited qualified plans . . . they are not protected.

**Florida Homestead Property Held in Trust**

All Florida counties now require a certificate of trust (some counties also require an affidavit of trust) be submitted to the

If a client is in another state, unable to travel, on vacation, a snowbird or any other situation that would prevent them from meeting in with an attorney in person, The Andersen Firm attorneys are able to design, draft and execute estate planning via telephone conference and mail away documents.

County Property Appraisers Office when a homesteaded property is transferred into trust. These documents must be submitted before April 30<sup>th</sup> of the year the home was transferred.

As long as this certificate, provided by the appraisers office, is signed and returned along with any other requested corresponding document(s) (i.e. affidavit of trust) there is no danger of losing Homestead. If you are unsure about the requested certificate or would like to inquire about the specifics of the form please feel free to contact your county appraisers office or The Andersen Firm.

### **The Andersen Firm Moves To New Tennessee Office:**

We at The Andersen Firm are very pleased to announce our relocation to our newly constructed suite of offices in the TriSummit Bank building conveniently located off State of Franklin Road in Johnson City. Our new address effective Monday, April 5<sup>th</sup> will be:

The Andersen Firm, A Professional Corporation

862 Med Tech Parkway, Suite 200

Johnson City, TN 37604

Our phone number (423-434-0091) and fax number (423-434-0092) will remain unchanged.

We would also like to take this opportunity to thank each of you for your friendship and your business. If you have friends or family members that are in need of Estate Planning, Settlement or Probate services, we hope you will recommend our firm to them.

### **The Andersen Firm Hosts Lefty Kreh Event:**

We are pleased to announce our first event held at the IFGA in Dania Beach was a huge success and we are looking forward to the upcoming events in Key West, Sarasota and Tennessee.

If you have never fly fished but want to learn this is a perfect opportunity for you. If you are an experienced fly fisher and want to polish your skills and learn from the best this is the chance of a life time.

Dates, times and locations:

**May 8, 2010**

Key West Yacht Club  
2315 N. Roosevelt Blvd.

Key West, FL 33040

**Aug. 14, 2010**

Sarasota Yacht Club  
1100 John Ringling Blvd.  
Sarasota, FL 34236

**Oct. 2, 2010**

Possum Creek Retreat  
1509 Bullock Hollow Rd.  
Bristol, TN 37620

Please **RSVP** to Pat Unferth Bowman at **866-230-2206** as  
**Space is Limited.**

Financial Advisors should feel free to bring clients / prospects.

**To arrange for a complementary estate plan review call  
Pat Unferth Bowman at: 866-230-2206**

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