The Andersen Firm's 2009 Annual Client Education Agenda

I. Welcome

- **a.** Phones on mute (*6 to mute - *7 to un-mute)
- **b.** Questions will be answered at the end of presentation

II. Client Continuing Education

- **a. Overview of:**
  - **i.** Foundational Estate Planning,
  - **ii.** IRA and Other Qualified Asset Planning,
  - **iii.** Advanced Planning Techniques
  - **iv.** Asset Protection Planning

- **b. Gift & Estate Tax Reform: Where We Are and Where We Are Going:**
  - **i.** 2009 estate tax exemption amount and gifting exclusions.
  - **ii.** Congress is still tied up with Health Care overhaul and it has pushed estate tax reform to the back burner. Expect to see a 1-2 year "patch" extending the 2009 rates ($3.5million exemption and 45% tax rate). We suspect it will be late 4th quarter 2009 before Congress focuses on the estate tax. There will be no 2010 "repeal" and AMT exemptions will be raised so they don't sunset to pre-2001 levels.
  - **iii.** The Pomeroy Bill is dead and Charles Rangel (D-NY), Chairman of the House Ways & Means Committee would love to see a $1million exemption with 55% tax

- **c. Need to make Gifts to Kids**

- **d. Ability to make tuition payments directly to educational institution and health care payments to health care facility.**

- **e. Need for Crummey Letters**

- **f. Desirability of 592 Plans**

- **g. Disadvantages of Uniform Trust to Minors Account / Advantages of Legacy Trusts**

- **h. Gift Tax update:**
  - **i.** Currently only two states, CT and TN, have state gift taxes. LA did up until July 2008 and NC did up until Jan. 2009.

- **i. Tougher Limitations on the use of Valuations Discounts & Minimum 10 year Term for GRATs:**
  - **i.** Under the Obama Administration's proposal, the effective date would be the date of enactment. But the congress is free to choose any other effective date. It would be very unusual for legislation like this to be made retroactive to a date before there was notice that it would be effective, so we do not expect new rules for FLPs and GRATs to be effective, 1/1/09 or 5/11/09 (the date of the Administration's proposals were released). On the other hand, it is possible that the "plan" "unveiled in mid June" will state the date of that "unveiling" as the effective date.

j. State Taxation of Trusts:

i. Seven States – Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming – do not tax the income of the trust at the state level. New Hampshire and Tennessee tax interest and dividends only.

k. Top 10 Funding Mistakes:

i. Not funding the homestead into the trust
   - Talk about how the case that argued that putting the homestead into a trust was thrown out, and that now it is safe to fund the homestead.

ii. Property Titled Jointly.
   - Passes by operation of law
   - Does not follow instructions set out in the trusts
   - No disability protection
   - Only delaying funding until one joint owned dies.

iii. Not Funding All Assets
   - Assets not in a trust will require probate
   - Additional legal costs to the estate
   - Much more complicated
   - Much slower settlement

iv. Buying Assets in Individual Name or Names Instead of Buying in the Name of a Trust
   - Will have to fund eventually
   - Unnecessary middle step
   - If debt on asset, bank may not allow the transfer
   - Put your trust ID in your wallet

v. Not Keeping a List of Trust Assets
   - Results in unnecessary hassle for the Trustees
   - Assets may be found after the settlement, causing the settlement to reopen

vi. Not Balancing Trust Assets
   - May result in the estate tax exclusion not being fully utilized.

vii. Not Reviewing Trust Assets on an Annual Basis
   - Given today's high volatility in the stock and real estate markets, trusts that were balanced a year or two ago may not be balanced now.

viii. Neglecting to Inform Insurance Company After Funding Real Property
   - The appropriate trust or trusts need to be added as additional insured's to the homeowner's and flood insurance policies.

ix. Having Too Many Assets Scattered Around
   - Instead of having several investment accounts, consolidate into one or two larger accounts
   - Convenient for the trustee
   - Minimizes the chance of leaving assets out of the settlement
   - May reduce settlement fees

x. Retaining Marketable Securities in Certificate or Paper Form

- Much more convenient to include in a portfolio
- Safer
- Convenient to the trustee
- May reduce Settlement Fees

l. Charitable Remainder Trust Income Can Be Sold:

i. The economic environment has changed and many people with Charitable Remainder Trusts (CRT) are looking for options. Fortunately there are several:
1. If the person who created the trust (Grantor) and Charity (Beneficiary) can agree to terminate the CRT.
2. The Grantor can sell their "income interest" in the CRT to a third party for a lump sum.

ii. The second option the lump sum will be treated as a "Capital Asset" and receive favorable capital gains rates and allow the Grantor to be out of the CRT with a lump sum to invest.

iii. Charitable remainder trusts and charitable lead trusts are particularly good in low interest times such as these, if you are optimistic about the market and have charitable goals.

m. Roth IRA Conversions:

i. The income limit is set to expire this year thus allowing high income earners get access to Roth IRAs.

ii. Rule that prohibits married couples who file separately from converting to Roth IRAs is also eliminated Jan. 1, 2010.

iii. Make the switch ASAP in 2010. You owe tax on the value of the IRA on the conversion date. Assuming the Roth's value grows in 2010, you will owe less income tax than if you waited till late in the year to convert.

iv. If the Roth's value drops there is a way out: You can "un-convert" without paying any income tax, so long as you do it before the due date of your 2010 income tax return including any extensions. But if you reconvert in a later year you won't get the benefit.

v. Clients who are nearing retirement shouldn't convert to the Roth if they expect to be in a lower tax bracket when they retire.

vi. If it a client is interested in passing as much of their IRA as possible to their beneficiaries it makes sense to convert to a Roth b/c there are no RMD requirements. So long as they are able to pay the tax on the conversion.

vii. IRA owners should also consider the probability of the Obama Administration bring back the 39.6% top tax bracket.

n. **Where are the Tax Hikes Obama Proposed?**

i. With the economy still on life-support and the Health Care debate still in full swing it is looking more and more likely 2011 will be the year the income, capital gains, etc. tax hikes will be come effective.

ii. Upper income earners still do and will continue to bear the brunt of income tax burden. The top 1% of filers paid 40.4% of ALL federal income taxes. Yet that same 1% made just 22.8% of the total reported adjusted gross income.

iii. The bottom 50% of all filers paid just 2.9% of the total income tax bill. Note: Social Security taxes are not included in these figures.

III. The Andersen Firms Areas of Practice

a. Estate Planning
b. Estate Settlement
c. Estate Litigation
d. Probate
e. Asset Protection Planning

IV. Mail Away Estate Planning – Bill Andersen

V. Process For Updating – Rhonda Miller, VP of Operations

VI. Questions & Answers