AICPA® Personal Financial Planning Section

From Tax Preparer to Financial Planner: The Road Best Traveled

Step 2: Moving from Tax Planning to Integrated Financial Planning for Individuals, Families and Business Owners

The Practical Side of Estate Planning

About the Series

Build your financial planning knowledge with this learning series and discover the necessary steps to transition from tax preparer to personal financial planner.

Step 1

Understanding the Value of Personal Financial Planning

Step 2

Moving from Tax Planning to Integrated Financial Planning for Individuals, Families and Business Owners

Step 3

Implementing PFP Services: A Plan for Success

Learn more at aicpa.org/pfp/taxtopfp.

About the PFP Section & PFS Credential

- The **AICPA Personal Financial Planning (PFP) Section** is the premier provider of information, tools, advocacy and guidance for CPAs who specialize in providing estate, tax, retirement, risk management and/or investment planning advice to individuals, families and business owners. (Learn more at aicpa.org/PFP.)

- The **Personal Financial Specialist (PFS) program** allows CPAs to gain and demonstrate competence and confidence in providing estate, tax, retirement, risk management and/or investment planning advice to individuals, families and business owners through experience, education, examination, and a resulting credential. (Learn more at aicpa.org/PFS.)

A CPA Financial Planner is a Trusted Advisor Who…

- Operates at the highest professional level when delivering PFP services to clients, acting in the clients' best interest.
- Adheres to high standards as required by the Code of Professional Conduct and the Statement on Standards in PFP Services through the application of objectivity, integrity, due care and competence required by CPAs.
- Is regulated by state boards of accountancy.
- Integrates advanced planning concepts, including tax and business considerations, with the entire financial plan.

Agenda

- Overview: Expand Your Financial Planning Practice through Your Client’s Tax Return
- The Practical Side of **Investment Planning**
- The Practical Side of **Estate Planning**
- The Practical Side of **Retirement Planning**
- The Practical Side of **Risk Management & Insurance Planning**
- Comprehensive Personal Financial Planning Case Study

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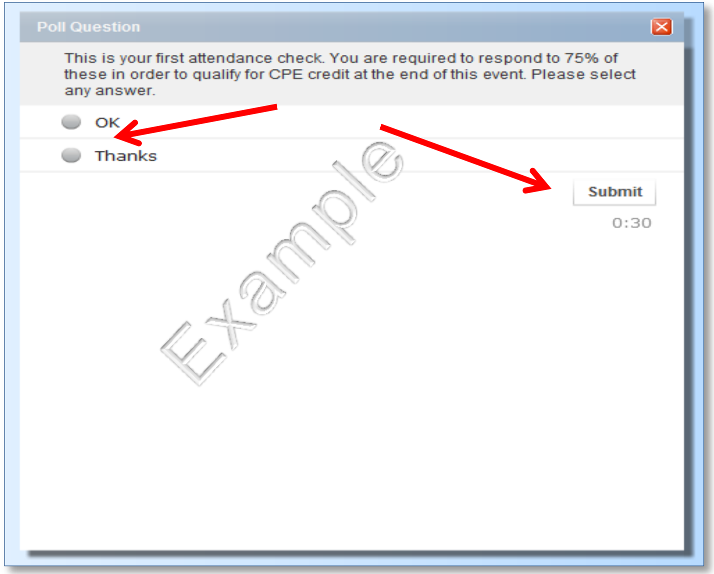

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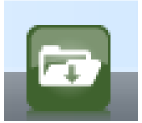

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- Access today's slides and learning materials by clicking this green 'Resources' button at any time during this presentation
- If you need help accessing these materials send a message through the Q&A application

Speakers

Susan Bruno, CPA/PFS

Beacon Wealth Consulting, LLC

Robert S. Keebler, CPA/PFS, MST, AEP® (Distinguished)

Keebler & Associates, LLP

Ted Sarenski, CPA/PFS, CFP®, AEP®

Blue Ocean Strategic Capital, LLC

Scott Sprinkle, CPA/PFS, CGMA, CFP®

Sprinkle & Associates LLC

Sprinkle Financial Consultants LLC

Steve G. Siegel, JD, LLM

The Siegel Group

Learning Objectives

- What is estate planning? Why it is important to your clients and your client relationships?
- The new world of estate planning for mass affluent (estates under $10M net worth) versus high net worth estates and why estate planning is important regardless of whether tax is owed
- Overview of tax considerations in estate planning
- Working effectively with your client’s attorney
- Portability considerations
- Working with large IRAs
- Proper titling of property and beneficiary designations
- Most common estate planning strategies and when appropriate

What is Estate Planning?

- **More than just having a will. *Much more.***

- **Involves listening, understanding and guiding your clients through….**
  - Potentially complex *personal* relationships and goals such as who will take care of your minor children or make your end of life decisions
  - Financial and property ownership and transfer issues including Family Business transfer opportunities
  - Tax minimization considerations, including philanthropy

Communication with clients is critical to *first* understand their situation, needs and desires *and then* work with them and *the rest of their team of advisors* to create a plan and documents to satisfy *their* goals

What is an Estate Plan? The 5 Ws+1H

Answer with your clients these key questions:

- **Who** are you planning for? (self, spouse, children, grandchildren, parents, business associates, friends, charities, etc.)
- **What** do you have to plan with? (assets & liabilities)
- **What** plans have you already made? (existing contracts, plans, will, trust, other documents)
- **Who** are you planning with? (The estate planning team of accountant, financial planner, attorney, life insurance advisor, trust officer)
- **Where? (**Where do you plan to live in retirement? Where should you consider to minimize income and estate taxes?)
- **When** do you want to get started**?** Don’t use immortality as an excuse!
- **Why** now? Don’t leave it to chance!
- **How** does the system work? (probate, federal and state transfer taxes)

The CPA Financial Planner Opportunity

- Nearly **$60 trillion in US wealth will change hands over the next 55 years.** And that excludes the nearly **$20 trillion in charitable contributions** by generous Americans.

- **About $5.6 trillion of the nearly $60 trillion** will be clawed back **by Uncle Sam in estate taxes.**

- **From whom? 93.6 million American estates through 2061 — the largest wealth transfer in American history**

Source: The Center on Wealth and Philanthropy (CWP) at Boston College

Why is Estate Planning so Important?

"The future ain't what it used to be." Yogi Berra

- **Step up and RECLAIM the role as Client's Most Trusted Advisor and Have FUN doing it!**
- **Persons over age 60 NOW have a collective fortune in excess of $12 trillion….and who will help them plan for the transfer of this money *efficiently*?**
- **Baby Boom Generation is the highest earning generation in history, and the "Boomers" have significant estates**
- **Longevity & health care costs increasing**
- **Great area of focus for female advisors since the transfer of wealth may be left to the surviving spouse….the wife!**

Estate Planning Objectives

Objectives:

- Family Harmony!
- Maximize lifetime enjoyment of property while provide for lifetime needs for one’s self and dependents.
- Dispose of assets at death while realizing wishes of the decedent, needs of the family, maximized estate, etc.
- Minimize federal and state estate taxes.

Best Practices:

- Review and update plan *regularly*.
- Place your current documents in a safe and secure location and share them with your key family or team members.

The Need for an Estate Plan

Reasons to plan:

- **Yes, minimize taxes but also…**
- **Probate issues**
- **Asset protection**
- **Liquidity**
- **End of life decisions**
- **Medicaid eligibility**
- **Business succession planning**
- And don't forget: **Consider parents' planning**

Who Needs to Do Estate Planning?

Nonfinancial Aspects of Estate Planning

- Maximize lifetime enjoyment of property
- Provide for lifetime needs of spouse/significant other and children and other loved ones
- Control over distributions
- Control over administration of estate (via executors and trustees)
- Name guardians
- Avoid probate costs and keep details of inheritance private by using a properly funded trust

Nonfinancial Aspects - continued

- Ensure your wishes are executed as desired
- Ensure speedy and cost effective distribution of estate
- Business succession planning
- Medicaid eligibility
- Asset protection
- Estate liquidity
- Use trusts to avoid wrong heirs, wasteful spending and wrong investments

Financial Aspects of Estate Planning – Estate and Gift Planning

	Current law, after ATRA Changes	If Bush tax cuts had simply expired
Estate tax rate	40% top rate	55% top rate
Estate tax exemption	$5.34 million in 2014	$1 million
Portability	Made permanent	Would have expired

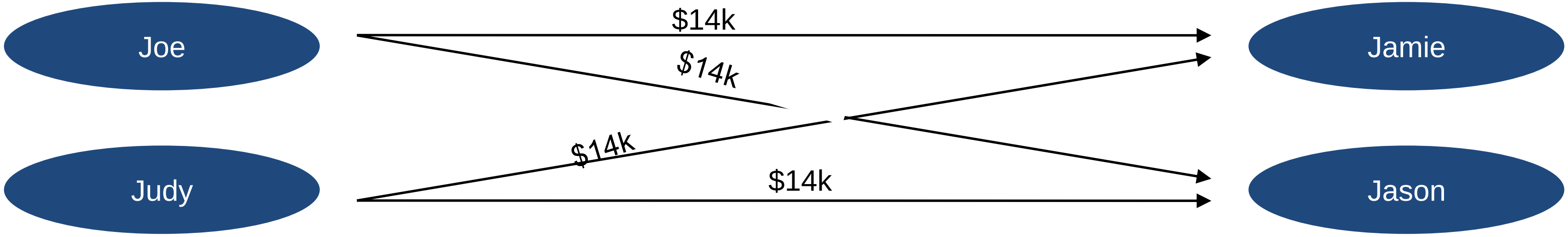
Estate and Gift Taxes

- Not as much need to focus on estate equalization due to the permanence of portability
- May want to focus on establishing irrevocable trusts to hold assets now so property or investments can pass down to other generations, minimize estate taxes, and achieve asset protection
- Review and update old A/B Trusts and ILITs for tax law changes
- Focus estate planning and gifting on protecting income tax basis for heirs

Estate and Gift Taxes

- **In 2014, any individual can give another individual $14,000 without using any of the $5.34 million lifetime exemption**

Example: Joe and Judy are married taxpayers with a daughter, Jamie, and her husband Jason. Joe and Judy can give Jamie and Jason $14,000 a piece allowing a total of $56,000 to be transferred out of their potential estate in 2014



How Does the Federal Estate Tax System Work?

Overview

The federal estate tax is determined as follows:

- The place to begin is with the determination of a decedent’s “gross estate”.
- The fair market value of the decedent’s property determined as of the decedent’s date of death must be reported. Code Section 2031 and 2033.
- Subtract from the gross estate the allowable deductions (see the discussion below of the available deductions) to arrive at the taxable estate
- Add to the taxable estate any “adjusted taxable gifts”, (i.e. gifts in excess of the annual exclusion gifts) made after 12/31/76 (except for gifts already included in the gross estate) to arrive at the tax base.
- Compute the tentative federal estate tax on the taxable estate by using the unified rate schedule.
- Subtract from the tentative estate tax the available tax credits, including the unified transfer tax credit available in the decedent’s year of death to reach the net tax due.
- Pay attention to transfers to persons two or more generations younger than the transferor (typically transfers from grandparents to grandchildren).

Property Included in the Gross Estate

- All property owned at death to the extent of decedent's interest therein is included in the gross estate. Code Sections 2031, and 2033.
- One-half of the community property in which decedent had an interest. Code Sections 2031, and 2033.
- One-half of jointly-held property where the joint tenants are husband and wife; all of jointly-held property where the tenants are not married to each other—subject, in the case of non-spouse joint tenants, to the surviving joint tenant's ability to prove contribution. Code Section 2040.

Property Included in the Gross Estate

- Property subject to a general power of appointment. Code Section 2041.
- Proceeds of life insurance policies on the decedent's life where either the proceeds are payable to the decedent's estate or in which the decedent retained an incident of ownership. Code Section 2042.
- Decedent's interest in annuities, retirement plans and employee benefit plans where an interest can be left to a survivor. Code Section 2039.

Property Included in the Gross Estate

- **Assets owned by or for a surviving spouse for which a qualified terminable interest property (QTIP) marital deduction election was previously allowed. Code Section 2044.**

- **Property transferred by a decedent during lifetime, including:**
  - Gifts made within three years of death of life insurance policies and certain transfers where the gifted property would otherwise be included in the decedent's estate under Code Sections 2036 – 2038. [Code Section 2035].
  - Gifts where the decedent retained the right to income from the transferred property, or the right to possess or enjoy such property. Code Section 2036.
  - Transfers which take effect at the donor's death in which the donor retained a reversionary interest. Code Section 2037.
  - Gifts where the donor retained the right to alter, amend, revoke or terminate the transfer. Code Section 2038.

Deductions from the Gross Estate

- **Funeral expenses. Code Section 2053; Reg. § 20.2053-2.**
- **Administration expenses. Code Section 2053; Reg.20.2053-3.**
- **Debts of the decedent and claims against the estate that have been paid, with limited exceptions for deduction of claims that are estimated. Code Section 2053; Reg. § 20.2053-4.**
- **Mortgages and liens. Code Section 2053; Reg § 20.2053-7.**
- **Casualty and theft losses arising during the administration of the estate, without limitation. Code Section 2054.**

Deductions from the Gross Estate

- Charitable contributions without limitation. Remainder interests given to charity only qualify for the charitable deduction if they are made in an approved form of charitable remainder annuity trust, unitrust, or pooled income fund. Code Sections 664 and 2055.

- Marital deduction—unlimited deduction for property passing to the decedent's surviving spouse in a qualified manner Code Section 2056.

- Qualified conservation easements can be deducted from a decedent's estate up to a maximum limitation of $500,000. Code Sections 2031 (c) and 2055(f). In addition, the land subject to such an easement may also be valued at a reduced value.

- State inheritance, estate, legacy or succession taxes. Code Section 2058.

Credits Against Estate Tax

- **Unified credit.**
  - A credit in the amount of $2,081,800 for 2014 is allowed against the estate tax liability of every decedent. This credit is equivalent to an exemption of $5,340,000 of otherwise taxable assets owned by a decedent. Code Section 2010.

- **Credit for gift taxes paid with respect to gifts made prior to 1/1/77, if any portion of such gifts must be included in the decedent's gross estate. Code Section 2012.**

Credits Against Estate Tax

- Credit for varying amounts of the federal estate tax paid on prior transfers from another decedent who died within ten years of the "current" decedent. Code Section 2013.

- Credit for foreign death taxes paid to another country on property taxed by both the U.S. and such other country—up to the amount of U.S. tax attributable to such property. Code Section 2014 (b).

Portability

- **Portability allows the executor to either utilize the decedent's estate tax exclusion amount ($5,340,000 in 2014) or to transfer it to the decedent's surviving spouse.**
  - *However, the new law does not allow the decedent to transfer his/her unused GST tax exemption to the surviving spouse.
- **Key Mathematical Concepts**
  - Basic Exclusion Amount (BEA)
  - Deceased Spousal Unused Exclusion Amount (DSUE)
  - "Bypass trust"
  - Marital Deduction
  - IRA Management

Basic Exclusion Amount (BEA)

- Prior to 2011, the basic exclusion amount was referred to as the “applicable exclusion amount”
- In simple terms, the BEA is the minimum estate tax exclusion amount allowed for a single decedent
  - In 2014, the BEA is $5,340,000
- Like the prior “applicable exclusion amount”, the BEA is reduced by prior taxable gifts

Deceased Spousal Unused Exclusion Amount (DSUE)

- DSUE is the unused estate tax exclusion that the deceased spouse transfers to his/her surviving spouse.
- DSUE is limited to the lessor of:

A. The basic exclusion amount (BEA):

$5.34 M in 2014

B. The excess of:

(i) the BEA of the last deceased spouse of the surviving spouse over

(ii) The taxable estate of the last deceased spouse

Example:

- BEA = $5.34 M
- Deceased's estate = $3.00 M
- $5.34 M – 3.00 M = $2.34 M

Portability - Indexing for Inflation

- The basic exclusion amount (BEA) is indexed for inflation
- DSUE ***<u>is not indexed</u>*** for inflation

	BEA	DSUE
2014	$ 5,340,000	$ 5,340,000
2015	$ 5,500,000	$ 5,340,000
2016	$ 5,670,000	$ 5,340,000
2017	$ 5,840,000	$ 5,340,000
2018	$ 6,020,000	$ 5,340,000
2019	$ 6,200,000	$ 5,340,000
2020	$ 6,390,000	$ 5,340,000

Essential Issues and Documents to Address with Every Client

Last Will & Testament

- The will contains the client's estate plan.
- Disposition of property – the spouse
- How much to leave to the spouse
- QTIP Trust Alternative
- Caution: property passing outside the will
- Other individual beneficiaries
- Charitable beneficiaries
- Designation of fiduciaries – executor, trustee and guardian

The Living Trust

- In some states, the living trust is the estate planning vehicle of choice for all residents, rather than a will
- Operation
- Probate avoidance
- Management vehicle
- Privacy vehicle

Be Alert for Problems – Undue Influence

- Caregiver child
- Unrelated third party providing companionship
- Often no easy solution
- Avoid issues through communication!
- Consider gifts while the client is alive
- "No-contest" clause
- Planner: recognize the potential for future problems

Plan for Disability

Durable Power of Attorney

- A document wherein the person signing it (the “Principal”) names another (the “Agent” or “Attorney-in-Fact”) to act on behalf of the Principal with regard to the various actions and situations described in the document.
- A power of attorney is called a “durable power” when it expressly provides that is survives the incompetency or disability of the Principal.

Durable Power of Attorney - Advantages

- No court approval; effective when signed
- Attorney-in-Fact and named successors
- Attorney-in-Fact is a fiduciary
- Can create its own definition of disability or incompetency
- Attorney-in-Fact powers can be drawn either broadly or narrowly
- Can address issues such as authority to make contributions to or withdrawals from retirement plans
- Gifting clause may need to be broad in order to make gifts for Medicaid planning purposes

Durable Power of Attorney - Continued

- A power of attorney may be drafted so that it is effective immediately upon its execution. Alternatively, it may be drafted in such a manner as to be considered a “springing power” that permits the Agent to act only when there is a showing and proof that the Principal lacks capacity.
- Persons holding a power of attorney as Attorney-in-Fact sometimes encounter difficulty being permitted to use the power.
- Formalities are important when a power of attorney is executed. The client must have legal capacity to knowingly sign the document at the time it is executed.

Plan for the Worst

- **Living Will**
  - A document that permits a competent adult to make an advance written declaration of his or her medical treatment preferences in the event of becoming incapacitated and no longer able to express his or her wishes, or in the event of becoming terminally ill with no hope of recovery.
- **Health Care Proxy**
  - A document wherein a competent adult appoints another adult as his or her agent, authorized to make any and all health care decisions on behalf of the Principal, including the decision to refuse life sustaining treatment in the event the Principal becomes incapacitated.

Address the HIPAA Issues

- **The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal statute designed to provide privacy protection for patients and limit the manner in which healthcare providers can use and release medical information.**
- **In order to avoid any potential problems that might arise by an "overzealous" assertion of the patient's privacy rights under HIPAA, it is recommended that the following (or similar) language be inserted in a Health Care Proxy to address the HIPAA concerns.**
    - " RELEASE OF MEDICAL INFORMATION UNDER 45 CFR 164.502(g): The agent named in this document is hereby designated as my "Personal Representative" as defined by 45 CFR 164.502(g), commonly known as the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This individual is to have the same access to my health care and treatment information as I would have if I were able to act for myself. My Agent and Personal Representative named herein is also authorized to take any and all legal steps necessary to ensure his or her access to information, and such action shall include resorting to legal process, if necessary, to enforce my rights under the law and attempting to recover attorneys fees, as authorized by [Name of State] law, in enforcing my rights."

Essential Strategies to Consider in Developing the Estate Plan

The Unlimited Marital Deduction

- **An unlimited marital deduction is allowed for both estate and gift tax purposes for inter spousal transfers to US spouses**. I.R.C. § 2056, § 2523.**
- **Transfers to one's spouse must be made in a "qualifying manner".**
  - Outright transfer to the surviving spouse
  - Power of Appointment Trust
  - Estate Remainder Trust
  - QTIP Trust
  - **QDOT for Non US citizen spouses – special rules apply to ensure US transfer tax is eventually paid.

  - ** Non US spouses do not qualify for the unlimited marital deduction. The unified credit may be used and the annual exclusion amount is $145,000 in 2014.

The Unified Credit/Exemption Equivalent/By-Pass Trust

- **Every individual, whether or not married at the time of death, is entitled to a "unified credit"**
  - The amount that one may pass free of tax is $5,340,000 for 2014
- **"Applicable exclusion"**
- **A key concept in estate planning is to recognize that, particularly in larger estates, it is foolish to not take advantage of the full applicable exclusion at the death of the first spouse to die**
- **Steps to creating trust: draft trust, FUND trust**
- **Estate equalization may not be a concern now with portability, but remarriage may undo the plan**

Irrevocable Life Insurance Trust (ILIT)

- Shelters life insurance from estate tax, if done correctly
- Trust is OWNER of the policy
- Trustee makes premium payments (annual gift)
- Note: crummey notices – required annually
- Grantor trust for income tax purposes is an option
- Review and determine if an existing ILIT is no longer needed
- Coordinate with insurance planning!

Basic Lifetime Gifting Strategies

- Utilize annual amount
- Utilize lifetime amount
- Grantor trust status
- Split gifts
- Gifts of property to which discounts can apply
- Payments made directly to healthcare provider or school for tuition/medical
- ILIT premiums
- Pay attention to the basis of gifted property

Working Effectively with Your Client's Attorney

- **Team approach**
  - CPA should be the "quarterback" to oversee the attorney, insurance agent, investment advisor, and trust officer in all that they do for your clients
- **"Reactive" vs. "Proactive"**
- **CPA financial planner as the most trusted advisor**

Questions?

AICPA PFP Section Member Resources

PFP Section members, inclusive of CPA/PFS credential holders, have access to resources on the latest planning strategies and trends in personal financial planning services so that they can practice competently and profitably. Visit aicpa.org/pfp/resources.

Estate	Tax	Retirement
Investment	Insurance & Risk Management	Practice Management
Legislative/ Regulatory	Professional Responsibilities	Consumer Content

Resources to Transition from Tax to PFP

- **aicpa.org/pfp/pathway**
  - PFP Practice Center: a guide to adding or expanding PFP services in your practice
  - Whitepapers and guides, including *Roadmap to Developing and Managing a CPA PFP Practice*
  - Checklists, including *Analysis of a Tax Return for Personal Financial Planning* and *Personal Financial Outlook*
- **Member communications**
  - *Financial Planning Digest* (twice a week digest summarizing PFP news, trends, legislation & more)
  - *PFP News* (weekly e-newsletter featuring member-exclusive resources, news & events)
  - Bob Veres' *Inside Information* newsletter, e-columns & media reviews ($349 value for FREE)
- **Forefield Advisor ($469 value for FREE)**
  - Client education and communication tool
  - Written by CPAs, attorneys and other subject matter experts
  - More than 3,000 resources covering personal financial planning, including estate, tax, retirement, investment and risk management planning
- **Visit joinpfp.org to become a member**

Related Resources for PFP/PFS Members

- **Estate Planning (www.aicpa.org/pfp/estate)**
  - *The CPA's Guide to Financial & Estate Planning*
  - Planning After ATRA and Net Investment Income Tax Toolkit
  - Legislative and regulatory updates
  - Listing of Estate Planning Learning Opportunities

PFP Learning Opportunities

- **AICPA Conferences**
  - Advanced PFP Conference (January)
  - Tax Strategies for High Income Individuals (May)
  - Advanced Estate Planning Conference (July)
  - Sophisticated Tax Planning for Your Wealthy Clients Conference (November)

- **Webcasts and podcasts led by experts from around the country**

CPA/PFS News and Events

- **PFS Exam**
  - Register for Summer or Winter window
  - Discounts, sponsorships and volume pricing available
- **Education Opportunities**
  - In-depth courses in estate, retirement, tax, investments, insurance, and PFP process
  - In-person and online PFP Boot Camp
  - Self-study PFS exam review course
- **Learn more at aicpa.org/pfs**