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The Planner

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2014 Estate Tax Exemption is $5,340,000

A-B Trusts: Is It Time to Switch to an A-B Disclaimer Trust?

Rising Estate Tax Exemptions Allow for Greater Planning in Flexibility

The IRS recently announced that the estate tax exemption amount for 2014, adjusted for inflation, will be $5.34 million. This increase is the latest in a long line of exemption hikes, relieving the apprehension many experts had previously felt about reduction of the amount. This stable trend means that the vast majority of families will never exceed the higher threshold amounts—eliminating the need for "mandatory" A-B Trusts which were previously used to protect assets when the exemption amount appeared to be in flux.

Estate Taxes 1997-2014

Year	Estate Tax Exemption	Top Estate Tax Rate
1997	$600,000	55%
1998	$625,000	55%
2000	$675,000	55%
2002	$1,000,000	50%
2004	$1,500,000	48%
2005	$1,500,000	47%
2008	$2,000,000	45%
2009	$3,500,000	45%
2010	Unlimited	0%
2011	$5,000,000	35%
2012	$5,120,000	40%
2013	$5,250,000	40%
2014	**$5,340,000**	**40%**

With exemption numbers steadily moving upward with inflation, many estate planners have started recommending that their married clients change their estate plans to A-B "Disclaimer" trusts—trusts that allow for greater planning flexibility and cost savings while estate tax exemptions remain high.

How Does It Work?

If a married person has an A-B Disclaimer trust, after the death of the first spouse, the surviving spouse has the ***option*** of setting up the B trust when the first spouse dies. This differs from a mandatory A-B trust because in a mandatory A-B trust, there is ***no option*** to disclaim—the trust estate is immediately split.

This split, required by the mandatory trust and optional under an A-B Disclaimer trust, costs the estate money in the form of appraisals, legal fees, CPA costs, and no second step-up in basis (causing capital gains when the property is sold). The B trust also takes a lot of meetings to set up—costing you time as well as money.

For married couples with a mandatory A-B Trust, now may be the time to simplify your trust and eliminate the mandatory B trust component.

Just ask yourself, "is my estate worth more than $5,340,000.00?"

If the answer is no, keeping the mandatory B trust component would be like having your sprinklers on in a rain storm or your lights on at noon—it isn't needed and it's costing you money. **You** can decide to turn the B trust off!

If you have any questions about A-B Disclaimer trusts or wish to convert your trust, please do not hesitate to call our office at **(310) 316-2400**.

We are also offering a **FREE** seminar on A-B Disclaimer Trusts at our offices in Torrance on **Wednesday, January 15, 2014 at 2 p.m.**—please call **1-800-209-6880 to RSVP!**

Technology and Estate Planning
Your Digital Legacy

By Vincent Bartalone
Information Technology Professional

Your "digital legacy" is everything that remains "online" after you pass away. This includes your Social Media profiles (such as Facebook, etc.), E-Mail, Online Banking Accounts, Google, and Internet sites where you have stored personal information.

Your "digital assets" are not limited to what is on the Internet; they also include files, licenses, and data on your computer hard drive and other digital storage devices.

Many clients want to know what they can do to protect their digital legacy and digital assets. Clients and attorneys often overlook this evolving area of the law during estate planning, despite its importance.

Here are some answers to the most frequently asked digital legacy questions:

Q. *Who has access to my digital assets after I pass away?*

A. Federal and State Laws along with the Privacy Policies of Internet Companies determine who has access to your digital assets.

In 1986, Congress enacted a law to protect the privacy of consumers, "*The Electronic Communications Privacy Act of 1986*[1]." This law predates the widespread use of the Internet; however, it is what most companies base their privacy policies on. When you accept the "terms of use" for a particular Website, you are most often agreeing to terms built to comply with this specific law.

The most common interpretation of this law by companies and the judicial system is that **only** the person who agreed to the terms may access that person's private data. This law applies to both the living and deceased.

Q. *What happens if I state within my Will that the Executor may access my digital data?*

A. This would not carry any legal power.

Currently, laws do not treat digital assets like physical ones. The law does not allow for the distribution of digital assets based on instructions within a Will. The only way a person's digital assets can be legally accessed by anyone other than the individual is with a court order or police warrant.

Q. *In that case, would it be wise just to share my passwords with someone I trust or use one of those services that provide password storage and allow someone access to them when I pass?*

A. Sharing passwords is a breach of many Internet company's privacy policies. The legalility of accessing a deceased person's data is unclear.

U.S. Lawmakers indicate that breaching a website's terms of service may ultimately be considered illegal if a person other than the intended user is given access to an online account[2].

Q. *I have many questions and concerns about my digital assets, what should I do?*

A. The best advice I can give is to plan ahead.

Estate Planning and Information Technology are extremely complex areas individually. Issues that involve these two fields require both Legal and Technical expertise to fully identify, analyze, and solve.

At Bezaire, Ledwitz and Borncamp, we recognize this specialized need and are capable of addressing the issues that our clients have through our unique combination of technological and legal experience. Contact us if you have any questions or need further information on how to best manage your Estate Planning, including your digital assets.

1 *18 U.S.C.A. § 2510 (12)*

2 *18 USC §1030 - Fraud and related activity in connection with computers*

WANT TO KNOW MORE ABOUT A-B DISCLAIMER TRUSTS?

FREE SEMINAR

WEDNESDAY, JANUARY 15, 2014 AT 2:00 P.M
970 W. 190TH STREET, TORRANCE, CA 90502

Please join us for an informative seminar hosted by Bezaire, Ledwitz & Borncamp's managing partner, Samuel Ledwitz. Samuel will be discussing A-B Disclaimer Trusts, explaining their benefits and risks, and what types of clients should use them.

Samuel will be holding a question and answer session immediately following his presentation. During this conversation, members of the audience can ask Samuel about the seminar material or **any** general Estate Planning issues they need some insight on.

This is a unique opportunity to take advantage of Samuel's knowledge and experience—don't miss out!

CALL US TO RSVP TODAY!
1-800-209-6880

Spotlight: Real Estate

This month, we are featuring some interesting tax tips from our friend, Mike Millea. Mike is a real estate expert and Manhattan Beach native with over **thirty years** of experience in the market. He holds a law degree (J.D.) from UC Hastings and a post-doctorate degree in Tax Law (LL.M.) from NYU.

When Should a Property Owner File a 1031 Tax Free Exchange?

By Mike Millea
Vice President – Investments, The Ensbury Group

Typically, when a property owner sells property, they are taxed on the gains from the sale during the current tax year. This can be costly for real estate investors, tying up money that could be put to better use as capital for new property, improvements, or other potential moneymaking endeavors. Fortunately, through proper use of Internal Revenue Code Sec. 1031, the tax due on these gains can be delayed. At the Ensbury Group, we have sold over 550 apartment buildings for our clients—helping many take advantage of 1031 tax free exchanges.

A property owner can make a 1031 exchange election when they effectively "trade" their income-producing real estate for one or more replacement properties; allowing the owner to defer the payment of federal income taxes and some state taxes on the gains from the transaction.

It is important to understand that a 1031 exchange is a tax-deferred transaction—not a tax-free one. If the new property is sold (unless the owner uses another 1031 exchange), the original deferred gain plus any additional gain realized since the purchase of the replacement property is subject to tax.

The central benefit of the 1031 exchange is having extra money available to invest in another property. In essence, a proper 1031 election is an interest-free loan from the IRS in the amount you would have paid in taxes on the initial transaction. Property owners are able to use this amount to improve their position in the market and purchase property that better fits their needs.

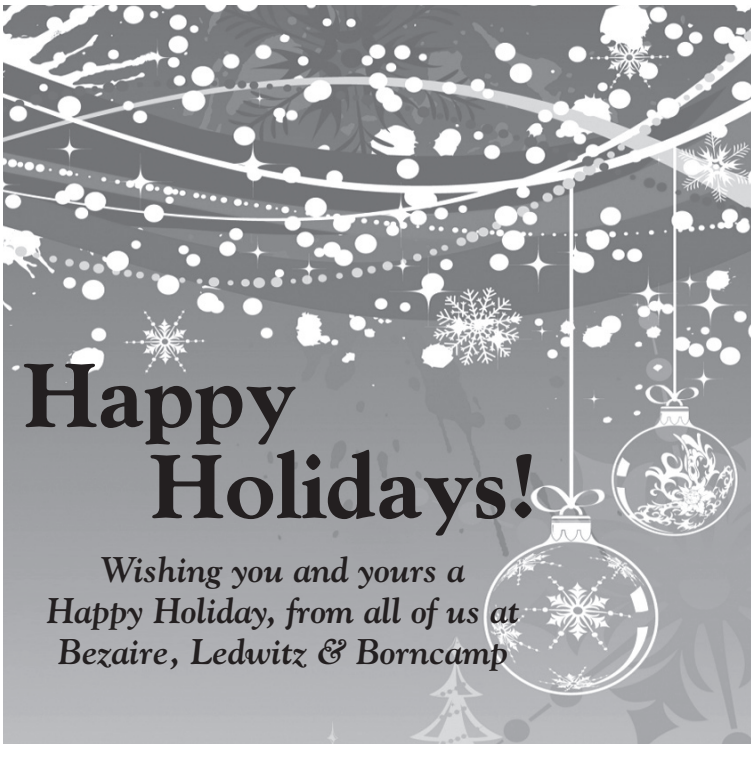
Here are some recent transactions I completed for my clients, demonstrating the potential of the 1031 exchange:

- I sold a four-unit building in Los Angeles for an attorney a few weeks ago. This was a rent control building and she was earning about $300 per month. Utilizing the 1031 exchange, we traded her current property for a new building that will be earning her about $2,500 per month initially with probable growth to $3,500 per month in the near future.

- In April, I sold a four-unit apartment building in Redondo Beach for a family whose father was suffering from dementia and could no longer manage the property. The property was too much for his family to handle, so we engineered a 1031 exchange into a very safe triple net property—which requires no management on their part. The family now nets about $6,000 per month and has, in effect, joined the "check of the month club."

The current real estate market is very hot, and if you have been considering selling your property, now is an excellent time to move forward before interest rates rise further.

Please give me call at (310) 546-8116 to arrange a free meeting to discuss how a 1031 Tax Free Exchange may benefit you—and don't forget to say that you saw me in "The Planner!"



ABOUT OUR FIRM

Bezaire, Ledwitz and Borncamp is a full-service law firm specializing in Estate Planning, Estate Administration, Probate and Estate Litigation. Our managing partner, Samuel Ledwitz, holds a post-doctorate degree (LL.M) in Estate Planning and is a California State Bar Certified Specialist in Estate Planning, Trust, and Probate Law. Mr. Ledwitz has years of experience helping clients plan for their future.

While Bezaire, Ledwitz and Borncamp focuses on Estate Planning, Estate Administration, Probate, and Estate Litigation, we have a large network of peers who can handle any type of case, including personal injury cases.

We have several locations available to our clients throughout Southern California:

Torrance
Bezaire, Ledwitz, and Borncamp, APC
970 West 190th Street, Suite 275
Torrance, CA 90502
(310) 316-2400

Long Beach
Bezaire, Ledwitz, and Borncamp, APC
111 W. Ocean Blvd. Suite 473
Long Beach, CA 90802
(562) 951-1400

Pasadena
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Bezaire, Ledwitz, and Borncamp, APC
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West Los Angeles
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