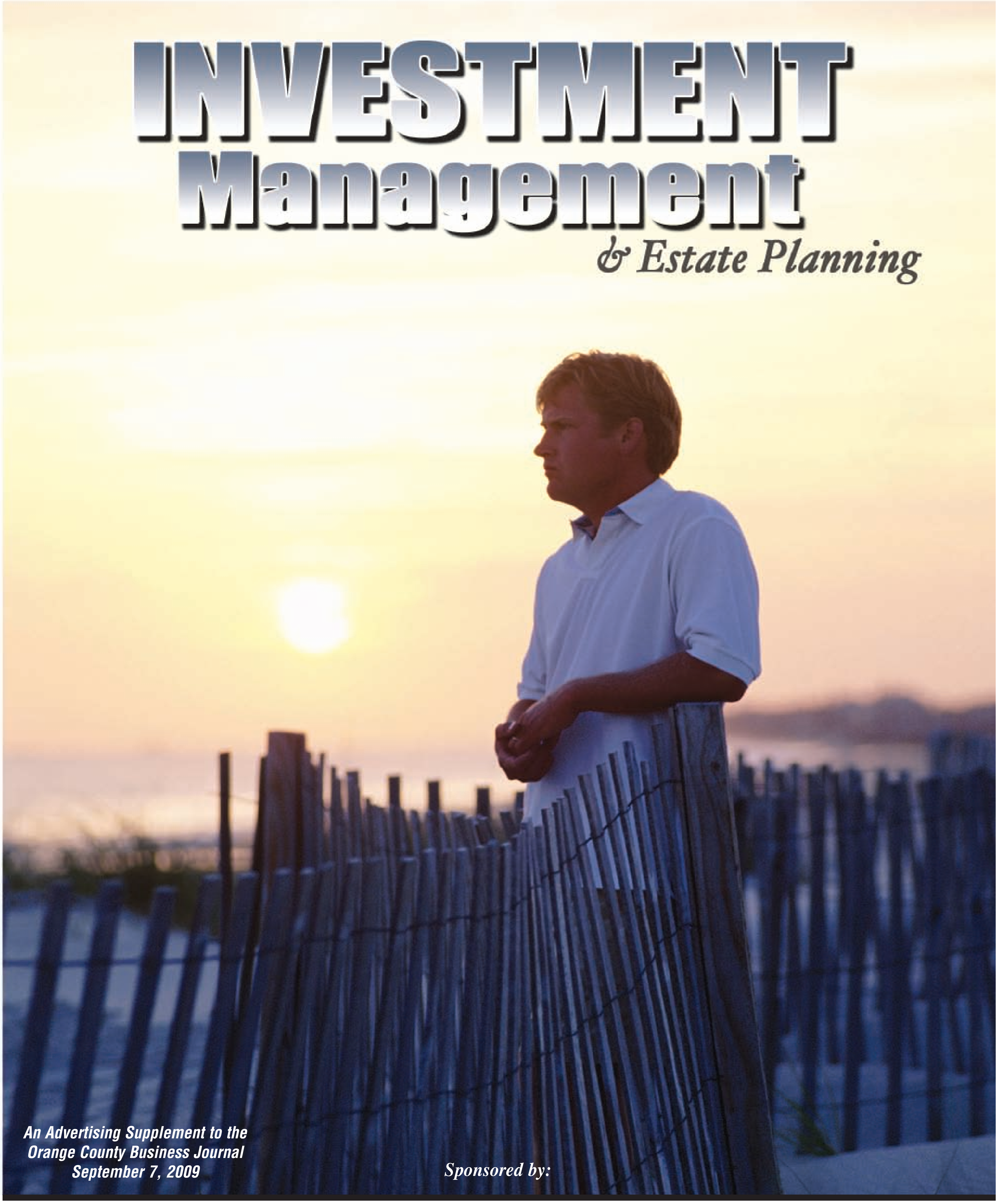
INVESTMENT Management

& Estate Planning



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Defensive Tax Planning Strategies

by Jeffrey C. Joy, Administrative Shareholder, and Michael V. LaBriola, Associate, Greenberg Traurig, LLP

In the current economic situation, individuals and business owners are increasingly more focused on maintaining what assets and sources of income they currently have, or more simply they are looking for strategies that will help them hold onto what they have now, and waiting for the economy to improve. This article summarizes several of these defensive tax planning strategies.

Debt restructuring, foreclosures and short sales

Through proper planning, it is possible to negotiate the restructure of either commercial debt or a residential mortgage without adverse income tax consequences. Similarly, a reduction in the interest rate on a mortgage loan can generally be arranged by the original borrower with a lender in a tax favored manner as well.

Jeffrey C. Joy

In the case of a "short sale" of real property, the result is that the property is sold for less than the balance due on the mortgage. The income tax consequences of the unpaid portion of the debt will depend on whether the debt was recourse debt (i.e., the borrower is personally liable for the debt) or non-recourse debt (i.e., the debt is only secured by the real property and the borrower is not personally liable for the unpaid balance).

In California, most mortgages used to purchase a home in which the borrower resides are non-recourse mortgages. Whereas, commercial loans and home refinance loans or a second or third deed of trust used for purposes other than the purchase of a residence are frequently recourse loans.

When a non-recourse mortgage is actually foreclosed upon by the lender, the property is treated as being sold for the balance due on the mortgage. Whether the debtor will have taxable gain on the foreclosure will depend on the amount originally paid for the home versus the amount of the debt. In most cases, there should be no taxable gain to the debtor because the amount of the purchase money debt will not exceed the debtor's tax basis (i.e., purchase price) in the property. If, however, a taxable gain does arise on a foreclosure sale of a principal residence, up to $500,000 of any such gain may be excluded from taxation for married taxpayers filing jointly ($250,000 for single persons) under both Federal and California law. Any gain in excess of such limits or any gain not eligible for this exclusion will be taxed as a capital gain in the year of the foreclosure.

Michael V. LaBriola

When a recourse loan is foreclosed upon, the outstanding debt is only deemed satisfied up to the fair market value of the property at the time of the foreclosure. Thus, for income tax purposes, there is a part sale and if the lender forgives the balance of the mortgage, this excess amount is treated as cancellation of indebtedness income which is taxed at ordinary income tax rates to the debtor. However, under the Federal Mortgage Forgiveness Debt Relief Act of 2007, up to $2 million of the debt forgiven on a principal residence may be excluded from the cancellation of indebtedness income rules. California has partially conformed to this Federal exclusion and allows up to a maximum of $250,000 of debt to be excluded from income as well.

The income tax treatment of short sales is parallel to the rules applicable to foreclosures. That is, a short sale on property with recourse debt will result in cancellation of indebtedness income. On the other hand, a short sale of property with non-recourse debt that results in gain, will generally be taxed more favorably as long term capital gain to the debtor.

Net operating loss carry backs and tax refund claims

As a result of the operating losses many companies have sustained since the decline in the economy, company owners will want to make sure that they have properly filed for any Federal Net Operating Loss ("NOL") carry backs to which they are entitled. Unfortunately, California has suspended the use of NOL carry backs until tax years beginning after January 1, 2011.

If you have net operating losses, net capital losses or business credit carry backs, you will also want to make sure you file Federal Form 1139 for a quick tentative refund or file Federal Form 4466 to quickly recover any estimated taxes you have overpaid as a result of any unexpected downturn in business or loss of sales revenue in your company.

Losses from fraud-related financial schemes

As a general rule, for both Federal and California purposes, theft losses are only deductible in the tax year they are sustained and are subject to several limitations. The most significant limitation is that theft losses are only deductible to the extent they exceed 10% of the taxpayer's Federal adjusted gross income for the year.

However, on March 17, 2009, the IRS issued a series of very favorable new rules on the deductibility of theft losses suffered by taxpayers in connection with "Ponzi" schemes or similar fraud-related financial transactions. These new rules apply to individual investors, feeder funds and to feeder fund investors in certain circumstances.

In general, the new IRS rules provide as follows:

1. Taxpayers may deduct 95% of their total theft loss which includes any income previously reported from the scheme but is reduced by any actual cash distributions the taxpayer received from the scheme.

2. This theft loss will be deductible not only against capital gains but also against ordinary income and the 10% adjusted gross income limitation will not apply.

3. Taxpayers may elect to carry back such theft losses up to 5 years as well as carry them forward 20 years.

Discharge of income taxes in bankruptcy

If it should become necessary to file for bankruptcy, the question frequently arises as to whether unpaid Federal and State income taxes are dischargeable in Chapter 7 bankruptcy proceedings. The specific rules applicable to the discharge of income taxes are quite complex but an overview of the rules is as follows:

1. Only income taxes are subject to being discharged. Taxes other than income taxes including payroll taxes, the 100% trust fund penalty (under IRC Section 6672) and fraud penalties are not dischargeable.

2. The outstanding income taxes must arise from tax returns originally due at least 3

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Managing Wealth With Strength and Confidence

by Joe E. Sweet II, Senior Vice President, Union Bank

Market challenges create estate planning opportunities

Charitable Lead Trusts, Grantor Retained Annuity Trusts and Intentionally Defective Grantor Trusts can be especially attractive estate planning strategies in today's economic climate.

Everyone should have an estate plan. Having a trust or a will in place ensures that your wealth is inherited by beneficiaries you choose, under the terms you designate, and that the process is managed by a trustee or executor you select.

A trust may also help you avoid the court-supervised probate process and ensure continuity of financial management in the event of incapacity. However, for those who have accumulated significant wealth, there is another reason to establish an estate plan: estate taxes. The federal government will tax the assets included in your estate, unless they qualify for an exception. Examples of exceptions include funds left to a surviving spouse (if they are a U.S. citizen), funds left to qualified charities and funds under the federal estate tax exemption amount ($3.5 million). If you think your estate, including life insurance and retirement assets, could exceed $3.5 million by the time of your death, you should consider estate tax planning. If you don't, the tax costs to your estate could exceed 45%.

Although the current economic condition has created financial difficulties for many, it also provides some unique opportunities for managing wealth transfer taxes and maximizing the funds ultimately received by your heirs. The basis for the opportunities is two-fold. First, taxes are based on the value of assets at the time of transfer. Therefore, gifting assets that are relatively depressed (e.g. an apartment building worth $2 million one year ago, worth $1 million today, expected to appreciate in better than normal growth pattern in the future) potentially saves taxes on the difference between the current value and expected future value. Secondly, some gifts in trusts are valued with reference to the Internal Revenue Code "section 7520" rate. The section 7520 rate is used to measure the present value of annuities, life estates and remainders for gift or estate tax purposes.

This rate is also known as the "hurdle rate" since a trust's asset performance must exceed this rate in order for planning strategies based on the rate to result in transfer tax savings. The 3.4% hurdle rate for September 2009 is near its historic low (two percent in Feb. 2009 vs. 11.6% at inception in 1989) providing an opportunity to leverage certain types of charitable and non-charitable trusts to reduce gift and estate taxes.

If you plan to leave your wealth to individuals, you may be interested in trusts such as Grantor Retained Annuity Trusts (GRAT), Intentionally Defective Grantor Trusts and Qualified Personal Residence Trust (QPRT), which capitalize on low interest rates and relatively low valuations. If charitable legacy planning is important to you, you may want to consider a Charitable Lead Trust.

Grantor retained annuity trust

A GRAT is an irrevocable trust that pays the grantor (creator of the trust) a fixed annuity—based on the market value of the GRAT—for a specified term. At the end of the term, the remaining trust assets pass to the designated beneficiaries. The goal of a GRAT is to transfer assets to heirs with reduced federal gift taxes. The value of the gift—the basis for the gift tax—is calculated by subtracting the present value of the annuity payments from the original value of the transferred property. The low interest rates and asset valuations in today's economic environment make the GRAT an appealing estate planning strategy. If the assets in the GRAT appreciate more than the hurdle rate (a greater likelihood given the low hurdle rate of two percent), the excess wealth remaining in the GRAT at the end of the GRAT term may pass to the grantor's beneficiaries tax free. Accordingly, the GRAT works particularly well for high-income-producing assets that are expected to appreciate. One of the estate planning strategies used for the GRAT is a method of "zeroing out" the gift made to the GRAT.

This is achieved by structuring the annuity payments high enough to make the present value of the annuity payments equal to the value of the assets transferred to the trust, thereby reducing the gift tax to zero. While GRATs are considered safe strategies, there are a few considerations to keep in mind. If the assets contributed to the GRAT do not appreciate faster than the hurdle rate, there will not be a tax-free gift to pass on to the grantor's beneficiaries. In addition, if the grantor dies during the trust term, a portion of the trust assets may be returned to the grantor's estate and may incur estate taxes. Finally, GRATs are generally not utilized for multi-generation gifts, such as gifts to grandchildren, but inten-

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tionally defective grantor trusts (IDGTs) are suitable for such transfers.

Intentionally defective grantor trust

An IDGT may also be used as an effective estate planning tool during a low-interest rate environment. The IDGT is an irrevocable grantor trust that includes an intentional flaw designed so that it is a grantor trust for income tax purposes (grantor pays income taxes on the assets) while it is a non-grantor trust for estate tax purposes (assets are removed from the grantor's taxable estate).This is an especially useful strategy for a business or other asset that is expected to significantly increase in value. The IDGT freezes the asset value for federal estate and gift tax purposes on the date the trust is initiated. The trust is initiated in the form of a sale. The grantor sells the assets to the trust at fair market value in exchange for a promissory note from the trust for a specified time. Because the IDGT is a grantor trust for income tax purposes, the sale will not trigger a taxable event for the grantor. However, the grantor will continue to be responsible for the taxes due on the earnings of the IDGT assets—this may not seem like a benefit to the grantor, but paying taxes on behalf of the IDGT allows the trust assets to grow tax-free and the tax payment is not deemed additional gifts made by the grantor. In addition, the appreciation of the assets in the trust will no longer be considered part of the grantor's estate, allowing the grantor to avoid gift taxes on the business' growth when the business is passed on to the grantor's beneficiaries.

Charitable Trust

A Charitable LeadTrust (CLT) is an irrevocable trust under which one or more qualified charities of the donor's choice may receive a gift in the form of fixed (annuity) or variable (unitrust) payments for a specified term. At the end of the specified term, the remaining assets (which may include cash, publicly-traded securities, closely-held stock and real estate) either pass to the creator (grantor lead trust) or to the donor's non-charitable beneficiaries (non-grantor lead trust). For gift and estate tax purposes, the value of the assets in a CLT are frozen on the date the assets are transferred.

Because today's economic climate offers reduced asset values and a low hurdle rate, this may be a good time to consider a CLT. The benefits of a CLT include:

- Supporting a cause (or causes) the donor cares about
- Reducing income taxes
- Passing assets on to beneficiaries with reduced estate taxes
- Retaining assets with growth potential for future beneficiaries, while providing current support to a specified charity

There are two variations of the CLT. The first is more beneficial in this economic climate. They include:

Charitable Lead Annuity Trust (CLAT)

A CLAT is an irrevocable trust under which the donor requires that a trustee pay one or more designated charities a fixed annuity payment each year for a specified term. At the end of the trust's term, the remaining assets are distributed to whomever the donor designates. If the donor is trying to maximize the tax advantaged gift to the non-charitable beneficiary, this type of trust is especially beneficial during a low-interest rate environment when the trust's assets may outperform the section 7520 rate. If this is accomplished, the assets remaining in the trust at the end of the trust term may pass to the non-charitable beneficiaries tax free.

Charitable Lead Unitrust (CLUT)

A CLUT is an irrevocable trust under which payments to designated charities are based on a fixed percentage of the value of the assets for a specified payment term. Unlike the CLAT, assets in the CLUT are revalued each year rather than upon the initial transfer of assets into the trust so the payments to the charity will increase or decrease with the market value of the trust. At the end of the CLUT's charitable payment term, the remaining assets are transferred to the donor's noncharitable beneficiaries.

Donors can establish a CLAT or a CLUT either as a grantor or as a non-grantor.

Grantor

Under the grantor lead trust, the trust creator (grantor) is considered the owner of the trust for income tax purposes and may receive a charitable income tax deduction and incur taxes on the income generated from the trust. Generally, upon termination of the trust period, a small percentage of the trust assets revert back to the grantor and the majority will pass to other individuals named by the grantor.

Non-grantor

Under the non-grantor lead trust, the trust assets are not owned by the creator and they will pass on to the creator's beneficiaries when the trust terminates. Since the creator of the trust is not considered the owner, there is no income tax deduction for a non-grantor CLT, nor is the trust's income taxable to the creator of the trust. Non-grantor lead trusts are most appropriate for individuals who are already maximizing the charitable income tax deduction and want to make a tax advantaged gift to individuals.

Consult with experts

While the current low interest rates and reduced asset values offer abundant opportunities for estate planning, this is a simplified review of available strategies. It is advisable for individuals to consult with an experienced estate planning attorney and their financial advisor to establish a strategy that will best meet their unique needs.

It is also important for individuals to carefully consider the potential benefits and risks associated with each estate planning strategy.

For more information, please visit www.unionbank.com.

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Contact Joe E. Sweet II at 949.553.2521 or joe.sweet@unionbank.com.

Tips For Trustees in Today's Economy

by Trudy Haussmann, CFP® and Robert Haugan, ESQ.

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Are you a trustee of a trust? The collapse of the Madoff Ponzi scheme and a 2008 that produced double—digit losses in nearly every market index may make you wonder: "Can I be personally liable for investments losses to the trust?" Unless you have taken the proper steps in investing trust assets, the unfortunate answer may be yes!

Under the Probate Code (the law that governs trusts), trustees owe administrative duties, investment duties and accounting duties to the beneficiaries, making them a fiduciary with respect to each beneficiary. This duty can be especially tricky when it comes to the investment of trust assets which are held for beneficiaries. California follows the "Uniform Prudent Investor Act," or UPIA, which can generally be found in California Probate Code Sections 16003, and 16045-1054. The UPIA attempts to reflect current investment practices and realities by adopting the Modern Portfolio Theory (MPT) of investmenting. MPT seeks to minimize risk by encouraging diversification of investments and evaluating investment performance on the basis of the performance of the entire portfolio. The focus on overall portfolio performance, diversification, and risk balancing requires a high level of expertise by the investor.

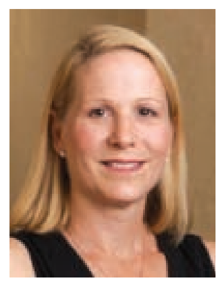
What Trustees need to know

Upon accepting a Trusteeship, trustees have a duty to review trust assets, make and implement an investment strategy and retain or dispose of assets to bring the trust portfolio in compliance with an investment strategy. (P.C. §16049). Additionally, the Trustee must make a reasonable effort to ascertain facts relevant to the investment and management of trust assets. Prudent investing requires more than merely purchasing "risk-free" investments. The UPIA appears to require a fairly structured process of gathering information, assessing beneficiaries' needs, and developing an appropriate plan or investment strategy.

"Prudence" under the UPIA is not based on risk alone, but whether the level of risk is appropriate under all of the circumstances. Risk is viewed as unavoidable. Investment decisions are not viewed in isolation, but rather evaluated in the context of the entire trust portfolio and as part of an overall investment strategy with risk and return objectives suitable to the trust circumstances.

The UPIA sets forth various factors that are appropriate in considering in investing and managing trust assets. These factors include: general economic conditions; effects of inflation/deflation; tax consequences of investment decisions; the role each investment plays in the overall trust portfolio; the beneficiaries' other resources; and needs for liquidity, income, preservation/appreciation of capital. (P.C. §16047)

Choosing an investment professional


Trudy Haussmann

Now you know what is expected of you as a Trustee. So in today's society where a person can be sued for practically anything, how can someone avoid liability for making investments decisions for trust assets? One way to minimize liability is to hire an investment professional who can consider all of the above and create an appropriate investment plan. Hiring just a stockbroker won't help you – the general rule is that the trustee may delegate authority to make investment decisions, but the delegation must be prudent in terms of selecting the agent, establishing the scope of the delegation, and reviewing the performance of the agent. So hire someone who is certified by respected agency, like a Certified Financial Planner. The planner will analyze the various risk tolerances, goals of the trust and the beneficiaries, as well as the general economic conditions, liquidity needs for scheduled (or unexpected) distributions from the trust, and many other factors.

If you do hire an investment professional, take a deep breath and relax. Compliance with the UPIA is determined in light of the facts existing at the time of a trustee's decisions, not in hindsight. Thus if Trustees can prove they properly complied with UPIA's requirements they are protected from liability for negative investment results. (P.C. §16046). Are you required to hire a financial professional? No. However, a trustee who fails to seek advice with respect to matters about which the trustee lacks skill or knowledge may be liable for failure to exercise proper care in making an investment. Of course, each trust is different, and an attorney can explain whether or not the trust has changed the rights and/or responsibilities of the Trustee.

There are many factors to consider when investing trust assets. Most trustees must deal not only with the responsibilities of the trust but also with their own work, family and other personal issues while being responsible for the trust. You job as a trustee is not easy, but having a well considered financial plan by an investment professional just may be the best decision you can make as a trustee.

For more information, please call (800) 773-8700 or visit www.haussmannfinancial.com.

A Personal Financial Recovery Plan

by Roger S. Stinnett CPA, CFP®, CIMA®, Manager, Tax & Financial Planning, City National Bank

As the federal government embarks on an economic recovery plan for our nation, now is a good time to develop your own "*Personal Financial Recovery Plan.*" Reviewing your own finances in these economic times can be difficult, but such a review can also uncover advantages you may not have considered. These days, financial planning is more critical than ever, and here at City National Bank, we believe the current environment of low interest rates and low asset values offers the following opportunities.

Roger S. Stinnett

Low Interest Rates

• **Refinance debt and lock in longer-term rates.**
We are not necessarily advocating paying off debt. Used appropriately, debt allows you to diversify your balance sheet and hedge against inflation.

• **Make intra-family loans to those in need**.
The Internal Revenue Service sets minimum interest rates for loans made between family members. Currently, an intra-family loan for three years or less can carry an interest rate of only 0.82%. Intra-family loans may allow a younger generation to purchase a home or pay off more expensive debt.

• **Fund Grantor Retained Annuity Trusts and Charitable Lead Annuity Trusts.**
These trusts are powerful tools to transfer wealth with low or no gift tax cost, and are particularly attractive in low interest rate environments.

Low Asset Values

• **Rebalance investment portfolio**.
Harvest gains that may be taxed at the current 15% rate versus potentially higher rates in the near future. Alternatively, net losses may be carried forward and utilized against future gains, thus making these losses more valuable if capital gains rates increase.

• **Transfer assets that are temporarily depressed to the next generation.**
Transferring now will allow future re-appreciation to occur in the next generation's estate. Consider the GRAT and CLAT strategies mentioned above.

• **Consider Roth IRA Conversion**.
In 2010, anyone can convert a traditional IRA to a Roth IRA. While conversion does generate income tax, no future taxes on this money, no required minimum distributions and the ability to pass this "tax-free" status to heirs may make the toll charge worthwhile.

• **Review life insurance**.
Re-assess the amount and type of coverage you need. Existing policies may need premium increases to keep them funded.

These are just a few broad tips to consider. Creating a ***Personal Financial Recovery Plan*** that addresses your specific situation will position you to benefit from an economic recovery. We believe now is the time to act as interest rates and asset values will not stay low forever, and future legislation may eliminate current opportunities.

If you are considering creating a Personal Financial Recovery Plan or think such a review could be beneficial for your family, please don't hesitate to contact City National Bank's Roger Stinnett, tax and financial planning manager at roger.stinnett@cnb.com. City National Bank, with more than $16 billion of assets is the largest bank based in Southern California.

City National Bank, as a matter of policy, does not give tax, accounting, regulatory or legal advice. The effectiveness of the strategies presented in this document will depend on the unique characteristics of your situation and on a number of complex factors. Rules in the areas of law, tax, and accounting are subject to change and open to varying interpretations. The strategies presented in this document were not intended to be used, and cannot be used for the purpose of avoiding any tax penalties that may be imposed. The strategies were not written to support the promotion or marketing to another person any transaction or matter addressed. Before implementation, you should consult with your other advisors on the tax, accounting and legal implications of the proposed strategies based on your particular circumstances.

How to Choose an Investment Manager

If you are like most investors, in 2008 you may have experienced severe damage to your stock market portfolio. Now, with some recovery being experienced in the stock market, you might wonder how you or your current investment manager will take advantage of future opportunities. Or you might be considering a change in management. Finding the right investment manager has always been a challenge and is especially difficult in today's investment environment.

When interviewing and selecting a qualified investment manager, you'll want to be confident that you've made the best choice for you and your family's financial future. Here are several suggestions to help in your search for an investment advisor:

Proven expertise

When you make the decision to hire an investment professional, you expect considerable experience with solid credentials and proven results. Qualified investment advisors can deliver a full analysis of your current stock, bond and mutual fund holdings, and help with

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Expert Personal and Estate Planning Designed to Meet Your Unique Needs

Founded in 1938, Snell & Wilmer is a full-service business law firm with more than 400 attorneys practicing in eight offices throughout the western United States and in Mexico, including Phoenix and Tucson, Arizona; Los Angeles and Orange County, California; Denver, Colorado; Los Cabos, Mexico; Las Vegas, Nevada; and Salt Lake City, Utah. Representing corporations, small businesses, and individuals, our mission is to take a genuine interest in our clients, understand their objectives, and meet or exceed their expectations.

Our Orange County office

Established in 1989, our Orange County office has grown to more than 70 attorneys. We serve a diverse base of business and individual clients, including real estate developers, manufacturers, technology companies, and financial and banking institutions. We regularly represent small businesses, emerging organizations, individuals, and entrepreneurs in virtually all areas of the law.

Our Orange County office provides clients in California and throughout the region with a wide range of legal services. Primary practice areas include tax and estate planning, general business litigation, product liability litigation, employment law services, real estate, commercial finance, environmental, franchising and licensing, bioscience, pharmaceutical and medical devices, securities, corporate law, intellectual property, and mergers and acquisitions.

Our attorneys have consistently been recognized by The Best Lawyers in America®, the oldest and most respected peer-review publication in the legal profession. In addition, ten of our Orange County attorneys were named "Southern California Super Lawyers" by Law & Politics Magazine this year.

Our Estate Planning and Trust Administration Group

We believe there is no "typical" problem in the area of personal and estate planning: the mix of life

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Our Attorneys

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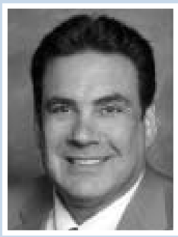
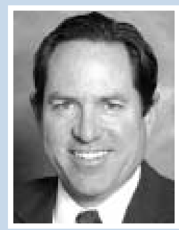
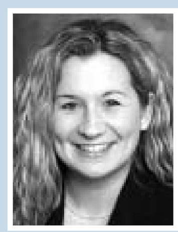


Roger A. Grad is a partner with Snell & Wilmer's Orange County office where his practice concentrates on complex tax and estate planning for high net worth individuals and business clients, counseling clients in tax and estate planning issues, and entertainment law. Grad may be reached at (714) 427-7011 or rgrad@swlaw.com.



Tim Kay is a partner with Snell & Wilmer's Orange County office where his practice is concentrated in tax, trust, and estate matters with emphasis in estate planning, trust and probate administration, and estate and gift taxation. He is a Certified Specialist in Estate Planning, Trust and Probate Law by the State Bar of California Board of Legal Specialization. Kay may be reached at (714) 427-7400 or tkay@swlaw.com.

Mark A. Ziemba, a partner with Snell & Wilmer's Orange County office, specializes in representing high net worth individuals and multinational corporations involved with inbound transfers to and outbound transfers from the U.S. His practice also focuses on integrated worldwide income, gift and estate tax approaches, among others. Ziemba may be reached at (714) 427-7537 or mziemba@swlaw.com.



Katherine Hughes is an associate with Snell & Wilmer's Orange County office. Her practice is concentrated in the areas of tax, trust and estate matters with an emphasis in estate planning, trust and probate administration, and estate and gift taxation. Her practice also includes estate and trust litigation, guardianships, and conservatorships. Hughes may be reached at (714) 427-7014 or khughes@swlaw.com.

Top Ten Business Reasons to Get Back to Flying Privately

Courtesy of West Coast Charters

10. Your time is limited AND valuable.
9. Your travel plans are sometimes made on short notice and require flexibility.
8. You need to reach multiple sites in a single day.
7. Your destinations offer minimal or no airline service.
6. You are traveling with colleagues and have business to conduct on the way.
5. You need to transport tools or equipment that cannot be taken onboard an airline.
4. You prefer to travel with people you know, not strangers.
3. You want to minimize your time away from home.
2. You just can't stand in one more airport line!

And the #1 reason. . .

1. West Coast Charters now offers a *Fleet Pass* providing charter discounts that will fit efficiently into your travel budget.

On a daily basis, business owners face a multitude of cost-vs.-benefit decisions. Charter is an effective business tool that provides flexibility without requiring a large capital investment.

With this in mind, West Coast Charters is the first Orange County-based charter operator to offer a membership card providing significant cost savings on all charter flights, allowing more businesses to take advantage of this viable business solution. Following are some answers to commonly asked questions regarding the ***Fleet Pass***.

Q How does the *Fleet Pass* work?

A *Fleet Pass* clients may choose from three membership plans entitling them to discounted pricing on every charter flight booked, with no exceptions and no black out dates (subject to availability).

Q With so many "Membership/Jet cards" out there, what makes the *Fleet Pass* different?

A Most card programs offer pre-purchased hours on a specific aircraft type. The *Fleet Pass* does not lock you into a quantity of hours or a single aircraft type. Whether flying one person up the coast, or eight to New York, you will enjoy the benefits of the program.

Q What types of aircraft are included?

A Regardless of which membership plan you choose, you will have access to the entire West Coast Charters fleet. The diverse fleet based in Southern California includes Super-mid and midsize jets, light jets and turboprops with the ability to cover virtually any flight mission.

Q Will my card expire?

A Never. Your benefits will continue as long as you wish to remain in the program.

Q Are there any penalties for canceling my membership?

A No. You may renew or opt out at any time.

Q How do I get started?

A Contact Chris Andrews at West Coast Charters today: (949) 852-8340 or candrews@westcoastcharters.com.

DEFENSIVE TAX PLANNING STRATEGIES

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years prior to the date the petition in bankruptcy is filed, the returns were filed by the taxpayer at least 2 years before the date of the petition, and such returns were not fraudulently filed.

3. The outstanding income taxes were assessed by the IRS at least 240 days before the date of the filing of the petition in bankruptcy.

It should also be noted that even if income taxes are discharged in a Chapter 7 bankruptcy proceeding, any tax liens recorded prior to the bankruptcy remain valid and enforceable. Thus, the IRS could demand to be paid on their lien when exempt property retained by the debtor in the bankruptcy is subsequently sold. Any such lien, however, is limited to the amount of the debtor's equity in the exempt property at the time of the filing of the petition in bankruptcy.

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All views expressed herein are solely those of the authors and should not be attributed to Greenberg Traurig, LLP. Mistakes and omissions remain the sole responsibility of the authors.

How to Assemble the Right Financial Management Team

by Ben Frank, Vice President and Relationship Manager & Jason Raefski, Chief Financial Officer, Sunwest Bank

From the moment we receive that coveted college acceptance letter and move away from home, we are programmed to select a major and prepare for a career. From the second we accept that first job, we are programmed to sign up for a 401K program, begin a savings account and fantasize about the day we might become our own boss.

We all work hard to build our net worth and grow our assets, homes, businesses and investments. These are assets we not only enjoy during our lives, but also serve as the legacy we leave behind to support our family and ensure their future.

Protecting one's assets and planning for the future is essential. The process of selecting the team of professionals needed to properly manage your investments and execute your estate plan can be daunting. There are many considerations that should be taken into account when selecting your financial planning team to ensure you are entrusting your assets into the hands of the right people.

Getting started: What to consider when selecting a wealth management team

As you begin the process of selecting your professional team, look no further than your existing contacts, trusted professionals and other business owners to obtain referrals for firms and individuals with whom they have had a positive working relationship. Conducting an Internet search for an attorney, Certified Public Accountant (CPA), wealth manager or bank leaves too much to chance. Instead, seek referrals from like-minded professionals in your field who can recommend individuals that have a proven track record of success, have years of experience in the industry, and are professional and dedicated to helping clients meet their individual needs.

Most business owners require more than one professional to properly manage their investments. As a result, open communication among the different members of the team is crucial. When assembling your asset management team, you need to be certain that your bank, attorney, CPA and wealth manager are meeting on a regular basis and all share a common understanding of both your personal and professional goals. This continuous dialogue also safeguards your investments from potential problems by ensuring that each member of your team is knowledgeable and aware of what the other is doing in order to achieve those goals. If your team is not communicating properly, the recommendations of one may inadvertently hamper the efforts being made by another. By keeping an open line of communication, your team will be able to work more effectively and efficiently for you.

Selecting the right bank

Banking with the right institution for you and your business is a critical component to the strength and success of your investment management team. Particularly in today's economy, you need to be certain that you are putting your money into the hands of a stable, healthy bank that is not at risk of being shut down.

Many community lenders, such as Sunwest Bank, have not only weathered the recession, but are thriving in it amidst the daily announcements of bank closures across the country. Local lenders possess a thorough understanding of the communities in which they live and work. Generally, community banks support the local economy by lending to businesses in the area. Because of their understanding of the local landscape, community lenders have a unique insight into the profit potential of a business based on location and the service provided, allowing them to make wise credit decisions and reduce their loss exposure. This extensive local market knowledge affords community lenders the opportunity to grant loans that many national banks would not.

Sunwest Bank, for example, grew its net income by 20 percent year-over-year in the first half of 2009. Its assets increased by 29 percent during the same period, making Sunwest one of California's strongest and healthiest community banks. Unlike many lenders today, Sunwest is well capitalized and actively lending, originating $56 million in new loan production in the first half of the year. This kind of financial health at the bank serves as both a safe place for your assets, as well as a potential partner for asset and business growth.

Service makes the difference

When selecting a bank, you want to find an institution that will serve as a true partner that can support your goals, the other members of your team, and can help you grow your business. Community banks are unique in that they are able to offer a more personal level of customer service that cannot be found with larger banks. With communication serving such a vital role as part of an effective investment management team, banking with an institution that sees your business as nothing more than an account number can greatly hinder your success. You need to be certain you are with a bank that will put a priority on your business and will have time to be a part of the active dialogue happening with the rest of your asset team.

At Sunwest Bank, each client is provided with one primary point of contact in addition to five additional banking professionals that are well versed on the customers' business and personal information. If a customer, or one of their professional advisors, has a question or a need, they have immediate access by direct phone line or personal email to a banker that knows them by name. Clients also have access to the executive management team to discuss any problems, questions or issues that may arise. For community banks, success is entirely reliant upon their customers' success, thus, every client is truly valued.

Accountability

Accountability is important in every aspect of business. Community bankers are held personally responsible to their customers twenty-four

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HOW TO CHOOSE AN INVESTMENT MANAGER

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goal setting, investment planning, asset allocation, portfolio management, performance measurement and analysis, and risk management. Choose an investment manager who has up-to-date skills in all these areas, pursues ongoing training, and has easy access to research and technological support and professional specialists.

Customized portfolio management

When hiring an investment manager you are likely seeking customized portfolio management. Check to make sure that is the reality of those advisors that you interview. You will want the advisor to undergo a thorough study of your current financial situation, your long-term goals and investment philosophy. This analysis and planning process should be undertaken, reviewed and agreed upon before any portfolio design. The professional will then be in a position to design and develop a portfolio that reflects your unique situation and sets you on the path to achieving your goals.

Understand the compensation structure

It is very important to understand how your investment advisor is compensated. Stockbrokers, for example, are typically paid commissions based upon the number of transactions completed, so the greater the number of trades that they make, the greater their compensation. Financial planners offer investment advice for a fee or commission that is earned when the products that they recommend are purchased. Other institutions charge annual fees, sometimes based upon the amount of assets under management. Unlike investment firms that benefit financially from constant account modifications or recommendations of proprietary products, Yosemite Capital Management, LLC operates as a Registered Investment Advisor, deriving revenues from portfolio fees only.

Seek objectivity

Your advisor should be able to offer a wide variety of investment choices. In addition to the compensation issue mentioned above, this is part of the objectivity that you should seek in finding a professional that acts as your fiduciary, with your objectives in mind. At Yosemite Capital Management, LLC, our only "agenda" is to increase your wealth in a way that minimizes your risk. Objectivity and integrity are more than mere words; they're tenets that are central to our philosophy.

Yosemite Capital Management, LLC takes a unique approach to managing the needs of sophisticated investors. Contact Paul Heckler, Managing Director, toll-free 888-738-0500 or www.yosemitecapital.com.

THE RIGHT FINANCIAL MANAGEMENT TEAM

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hours a day, seven days a week. This heightened level of accountability is not just extended to the customer, but equally to the other professionals on your asset team. If a community banker were to make an error, they risk not only compromising their relationship with you, but also with the other professionals on your team with whom they have a relationship. In an industry where a history of success and positive referrals is so important, community banks have a vested interest in being accessible and available to the customer at all times.

Knowledge

Community banks also make strong business partners because they take the time to really get to know your business. Because they are small in nature, community banks do not have separate credit underwriting teams that make the decisions about whether or not to provide financing for a business; our bankers are required to be a part of the underwriting process from beginning to end. This benefits business owners and the other members of the advisory team because from the very beginning of the relationship, the banker you are dealing with possesses an understanding of how your business works. That understanding allows your banker to provide the other members of the team with more insightful, knowledgeable advice and strategy on attaining your goals.

Partner with success

At every phase in life, we are programmed to plan for the future and anticipate the next step. The team managing your investments should be required to care for your future as much as you do. The relationship you share with your financial management team should be a personal one in which you employ experienced, accountable individuals who work together cohesively in order to help you achieve your goals. Everyone should make sure they are partnering with professionals who have a proven track record of success.

For more information, please visit www.sunwestbank.com.

EXPERT PLANNING

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circumstances and business and personal assets is unique for each person. At Snell & Wilmer, we emphasize cutting-edge tax planning tailored to realizing family objectives.

We begin by helping our clients define their overall objectives and then find a tax-efficient way to achieve those objectives. Our implementation of estate planning, which reflects family and tax objectives, requires firsthand experience with estate and gift tax laws and the ability to draft concise legal documents. Of course, all aspects of our representation are held strictly confidential.

We assist clients with a variety of estate planning and administration services, including:

- Revocable trusts and wills
- Durable powers of attorney
- Health care powers of attorney and living wills
- Life insurance trusts
- Charitable trusts
- Planning for qualified plan and IRA assets
- International estate planning techniques
- Minors' trusts
- Family limited partnerships
- Succession planning for a closely held business
- Estate and trust administration advice
- Preparation of federal and state estate tax returns
- Distribution of assets to beneficiaries

The implementation of our estate planning services is designed to provide our clients with the best possible level of understanding and clarity. We provide explanatory letters to assist in understanding any proposed plans. Additionally, we emphasize taking follow-up actions in titling assets and beneficiary designations.


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Intelligent bank choice.
As Orange County's bank, we support our local economy by lending to businesses and their owners. We help businesses strategize their financial structures so as to manage risk and optimize choice in multiple business environements.
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