

LIST OF SUBSTANTIVE CHANGES AND ADDITIONS:

PPC's Guide to Practical Estate Planning

Twenty-first Edition (April 2014)

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The following are some of the important update features of the 2014 edition of *PPC's Guide to Practical Estate Planning*:

- **Deciding Whether to Make Lifetime Gifts.** Although there are a number of advantages to making lifetime gifts, certain disadvantages apply as well. This update discusses the important factors to consider and cautions against lifetime gifts for clients who are unlikely to be subject to estate tax in the future.
- **Preserving the Step-up in Basis.** Now that fewer estates will be subject to estate tax, in light of the higher applicable exclusion amount, it is important to plan to preserve the step-up in basis for assets acquired from the decedent upon his or her death. Included in this update is a discussion of the optimal amount of lifetime transfers to avoid estate tax while preserving the step-up in basis.
- **Using FLPs in Wealth Transfer Planning.** For many years, family-limited partnerships (FLPs) have been widely used in wealth transfer planning. However, FLPs created to maximize valuation discounts may not be in the client's best interest if he or she is unlikely to be subject to estate taxes in the future. This update discusses FLPs, when they can be beneficial, and includes updated cases of the recent IRS's challenges to FLPs.
- **Wealth Transfer Planning for Same-sex Marriages.** The definition of who qualifies as a spouse was dramatically changed as a result of the Supreme Court's ruling in *Windsor* that Section 3 of the Defense of Marriage Act is unconstitutional. This update discusses the impact on the planning to use grantor retained income trusts (GRITs) for legally married same-sex spouses, new opportunities for spousal rollovers of retirement plans made by such couples, and many other implications of the Supreme Court's ruling, including the availability of the unlimited marital deduction, the opportunity to elect portability on the deceased spouse's unused exclusion amount, using the qualified terminable interest property (QTIP) election, and benefiting from the qualified domestic trust (QDOT) election for non-U.S. citizen spouses.

In addition to these featured items, the *Guide* includes the following update items:

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
Chapter 1 A Systems Approach to Estate Planning	1. Added a note that estate planners who are also certified financial planners may be required to meet the professional standards described in AICPA Statement on Standards in Personal Financial Planning Services No. 1 starting July 1, 2014.	Section 102

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
Chapter 2 Overview of Federal Estate, Generation-skipping Transfer, and Gift Taxes	1. Added a caution about making lifetime gifts for clients who are unlikely to be subject to estate tax.	Section 203
	2. Included a discussion of the need for state death tax planning for certain individuals.	Section 203
	3. Added a discussion of planning to make tax-exclusive gifts by having the donor pay gift taxes on lifetime transfers.	Section 203
Chapter 3 Lifetime Giving Strategies	1. Included a caution about making lifetime gifts if the donor is unlikely to be subject to estate tax.	Section 300
	2. Expanded the discussion of advantages and disadvantages of making lifetime gifts.	Section 301
	3. Added a planning tip about making the optimal amount of lifetime transfers to avoid estate tax while preserving the step-up in basis.	Section 301
	4. Updated the discussion of making discounted gifts that are contingent upon the donee paying the gift and/or estate tax, if any.	Section 308
	5. Expanded the discussion of factors to consider when deciding whether lifetime giving is appropriate.	Section 312
Chapter 4 Wealth Transfer Planning Using Lifetime Trusts	1. Included a planning point about monitoring GRATs to minimize the impact of investment losses.	Section 404
	2. Added a discussion of planning strategies to consider when an early termination of a QPRT is desired.	Section 407
Chapter 5 Wealth Transfer Planning without Trusts	1. Included a brief discussion of whether the Section 7520 rate can be used to value SCINs for transfer tax purposes.	Section 502
	2. Added a caution about the IRS's scrutiny of private annuities created shortly before the decedent's death.	Section 503
	3. Explained that valuation discounts are not as popular as they once were when using family limited partnerships.	Section 506
	4. Added a discussion of the <i>Trombotta</i> case, in which the IRS successfully argued that IRC Sec. 2036(a) did not apply to the transfer of property to family members.	Section 506
	5. Added a planning tip that family limited partnerships created in prior years to maximize valuation discounts may need to amend their partnership agreements to reduce the valuation discount.	Section 506
Chapter 7 Charitable Transfers	1. Included a discussion of the 3.8% net investment income tax (NIIT) that applies to charitable lead trusts and their distributions.	Section 703
	2. Added an observation that the NIIT does not apply to a charitable remainder trust at the trust level but may apply to the income beneficiary if his or her income exceeds the applicable threshold amount.	Section 704
	3. Explained how the NIIT applies to pooled income funds.	Section 712
	4. Added a caution on valuing easements based upon the numerous cases on disallowed charitable contributions.	Section 715

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
Chapter 8 Valuation Issues	1. Highlighted the <i>Giovacchini</i> case, in which subsequent events were successfully used to determine the fair market value of real property.	Section 801
	2. Updated the discussion of valuing a decedent's interest in a company with a built-in capital gain liability for the Tax Court's recent ruling in <i>Richmond</i> .	Section 801
	3. Cautioned that using the special-use valuation method will impact the basis for the heirs when computing gain on a subsequent sale of the assets.	Section 807
Chapter 9 Generation-skipping Transfers	1. Clarified the discussion of whether the GST tax applies to the donor or decedent who is not a U.S. citizen or resident at the time of the transfer.	Section 902
Chapter 10 Life Insurance and Liquidity	1. Highlighted the key features and common uses of whole life, universal life, and variable life policies.	Section 1003
Chapter 11 Retirement Plan Distributions	1. Clarified the discussion of rollovers and conversions to Roth IRAs.	Section 1107
	2. Expanded the discussion of spousal rollovers of retirement plans to include those made by legally married same-sex surviving spouses.	Section 1108
Chapter 12 Marital Transfers	1. Updated guidance for the Supreme Court's landmark <i>Windsor</i> decision and the subsequent IRS ruling that same-sex couples who are legally married in jurisdictions that recognize their marriages will be treated as married for federal tax purposes, regardless of whether their state of residence recognizes same-sex marriage.	Section 1201
	2. Added a planning tip about the relief provision for small estates electing portability.	Section 1202
Chapter 13 Elder Care and Incapacity Planning	1. Clarified the discussion of deciding when to begin receiving Social Security benefits.	Section 1301
	2. Expanded the discussion of Medicare eligibility, as well as how and when to apply for benefits.	Section 1301
	3. Added a caution about penalties that apply for late enrollment in Medicare Part B and Part D.	Section 1301
	4. Added a planning tip about why the initial selection of Medicare plan or Medigap policy is so important.	Section 1301
	5. Clarified the discussion of qualifying for Medicare when nursing home care is required.	Section 1301
Chapter 14 Postmortem Estate Planning	1. Added the consideration of avoiding or minimizing the estate's net investment income tax.	Appendix 14A
Chapter 15 Reviewing Wills, Trusts, and Other Documents	1. Added an observation about potential issues when naming a same-sex spouse in the will (if the will is governed in a state that does not recognize same-sex marriages).	Section 1502

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
Glossary	<ol style="list-style-type: none"> 2. Updated the discussion and examples of using the portability election versus paying state death tax when the federal and state exclusion amounts differ. 3. Expanded the discussion of trust decanting, including a recent case involving decanting. 1. Added various terms and updated values that may be helpful to estate planners. 	<p>Section 1507</p> <p>Section 1511</p> <p>Glossary</p>