Montgomery County Estate Planning Council

Charter Member

MCEPC Founded 1962

NEWSLETTER

Fall, 2019, Issue 56

Greetings from the President

Stephen A. Tulli, CFP®

Welcome to the Fall 2019 edition of our Newsletter! As I write this letter, we are finishing a successful inaugural meeting of our 2019-2020 Council year, a year we began as an NAEPC 5-Star Council of Excellence award recipient!! Our September meeting featured Larry Macklin, Managing Director and Wealth Strategist with Bank of America, courtesy of the NAEPC Speaker's Program. Larry illuminated the many benefits you are entitled to as part of our affiliation with NAEPC. I encourage you to take advantage of these by visiting http://www.naepc.org/membership/benefits/category/5

An exciting Fall calendar includes our October induction of several long-time members into our Evergreen Club, a group of long-standing and respected members with at least 25 years of continuous membership in the Council!! We also celebrated our Annual Fall Networking event, jointly held with the local chapter of the Financial Planning Association, on October 16th at Redstone in Plymouth Meeting! Most importantly, we have great October and November meetings on *Guardianships* and *Appraising Valuables* for your consideration. Please register now!

If you are interested in sponsoring any of our events, please contact Gavin McMorrow. If you would like to be considered as a speaker/presenter of one of our monthly educational events, please contact Jennifer Kosteva, and if you would like to join our Council, and enjoy peer networking, educational content and growth of your respective practices as professionals, please contact Bode Hennegan. Their respective contact information can be found in this newsletter or on our website: https://www.mcepc-pa.org/

Please also consider becoming an advocate of our robust Social Media program. We are looking for everyone to "like", "share", post content, pictures and link to our activity through LinkedIn, Facebook and Twitter. Please JOIN our groups online and contact Mary Podlogar if you have any ideas or suggestions.

If you haven't done so, please renew your membership or join NOW at http://www.mcepc-pa.org/! Our 2019-2020 programs are content-rich and include some of the industry's best speakers!

As always, I invite you to participate in your Council by contributing ideas, volunteering for Committees, becoming Sponsors and considering a future Board position. The vibrancy of our Council and its future rests with YOU! Thank you for being part of the Montgomery County Estate Planning Council and I look forward to working with all of you!

In This Issue:

WELCOME NEW MEMBERS AND THANK YOU TO OUR REFERRING MEMBERS!!

Bode Hennegan—Membership Chair

We extend a warm welcome to our newest members as well as a big THANK YOU to our members who referred them! Please continue to spread the word about the great benefits of MCEPC membership – education, networking, camaraderie!

As a token of appreciation, all members who refer a candidate receive a bottle of wine. I look forward to personally thanking our referring members and welcoming all new members at the next meeting.

Janet Barrett, CHFC® - Strategic Wealth Partners, LLC

Rebecca Roskey Brunner—Complete Care Strategies

Jack Elder—Coventry

Selaine Keaton, Attorney—Halligan and Keaton, P.C.

Deborah Miller, Esq.—Timoney Knox, LLP

John Richey, Attorney— The Tannenbaum Law Group

Loretta Shacklett—Simplify Senior Living LLC

Dennis K. Wolf—Republic Bank

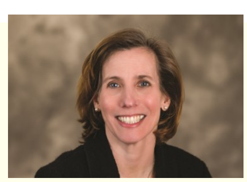
In The News...

Freeman's Moving to New Flagship Location at 2400 Market Street, Philadelphia

After nearly a century at 1808 Chestnut Street, Freeman's will be relocating its flagship location to Center City's prestigious 2400 Market Street. Featuring a purpose-built gallery and auction room with corporate offices above, Freeman's is excited to join the 600,000 square-foot development that has been recently hailed as one of the biggest and most visible mixed-use projects in Philadelphia. Currently scheduled for November 24, 2019, the inaugural sale to be held at 2400 Market is *A Grand Old Flag: The Stars and Stripes Collection of Dr. Peter J. Keim.* This landmark, single-owner sale will be the largest collection of historic American Flags ever to be offered at auction. It will be followed by the house's marquee *American Art & Pennsylvania Impressionists* auction on December 8, 2019. Fine sales across collecting genres will follow throughout Winter/ Spring 2020.

Congratulations to MCEPC member **Stuart Leibowitz, JD, RFC, AEP®** of BIRE Financial Services on receiving the AEP® designation from NAEPC.

Stephen A. Tulli, CFP® is proud to announce his recent affiliation as Wealth Manager with LPL Financial in the Radnor Financial Center, Radnor, PA. He can be reached at 610-977-2412 or at steve.tulli@lpl.com



Bode Hennegan of Life Managers & Associates has become a Certified Aging-in-Place Specialist (CAPS). This enables Life Managers to extend its Plan to Age in Your Home to include Assess Your Home, a comprehensive assessment of a personal residence for aging. Granted by the National Association of Home Builders, CAPS designation program teaches the technical, business, and customer service skills to support the growing industry of home modifications for aging.

New Member Spotlight

Meet new member Dennis Wolf

Q. As I understand it, you provide financial planning services. What do you like about that role in client relationships?

A. In my role at Republic Bank, I am able to bring my expertise in banking to help customers grow their businesses or improve their personal finances, which is incredibly rewarding. Republic prioritizes superior customer service and encourages employees to develop personal connections with customers, local organizations and non-profits. I take the time to understand my customers' needs, and it is wonderful to watch them achieve their financial goals

Q. Why did you join the MCEPC?

A. I joined the MCEPC in order to connect with attorneys and other estate planning professionals in Montgomery County whose services may be beneficial to our client's needs. MCEPC also provides us with an outlet to promote the Republic Bank brand and increase awareness in Montgomery County – a market where we are looking to grow.

Q. Tell us about your organization

A. Republic Bank is a Philadelphia-based bank with 28 locations throughout Pennsylvania, New Jersey and New York. Republic has the longest hours of any bank in the region, offers free checking and coin counting and issues debit/credit cards on the spot. We offer big bank benefits with a small-town feel, and our retail-based model is focused on fanatical customer service and absolute convenience.

Meet new member John Richey, Esq.

Q. As I understand it, you provide estate planning services. What do you like about that role in client relationships?

A. *I enjoy being able to provide clients with the peace of mind that those they care about are going to be taken care of after they pass away. Additionally, this area of practice allows me to utilize my interpersonal skills and creative problem solving abilities. I have the opportunity to learn about the amazing lives my clients have lived, and to craft plans that fit their goals for the future, from simple wills to complex dynasty trusts, and charitable vehicles.*

Q. Have you always lived in this area?

A. *I grew up in Blue Bell, and attended Wissahickon high school. I moved away for a few years to attend Pennsylvania State University where I earned my bachelors in Energy Business & Finance in 2014. I returned to the area to attend law school at Temple University. Upon graduation in 2018, I moved back to Blue Bell, and now work at the Tannenbaum Law Group in Plymouth Meeting.*

Q. Why did you join the Montgomery County Estate Planning Council?

A. *As a young attorney I am looking for opportunities to continue to grow my knowledge of estate planning techniques. I spoke with a member of the council and he recommended the MCEPC for the various programs that it offers. I am excited to make connections with other local professionals interested in estate planning.*

Meet new member Selaine Keaton, Attorney

Q. I understand you are an attorney, and your area of practice is Estate Planning and Estate Administration. What do you like about that area of the law?

A. *I sincerely enjoy and appreciate the opportunity to interact with clients. Early in my law career, I practiced environmental insurance defense, which was a great introduction to law but I quickly realized that I wanted to work with and help individuals, not institutions. Understanding that end-of-life issues raise many emotions in clients, I strive to bring an empathetic as well as a sympathetic approach to my clients' needs whether they are doing Estate Planning for themselves or administering an Estate. Following the death of a loved one, the primary concern of a client should be emotional healing. The majority of clients do not understand the legal and financial responsibilities of an Executor. My goal is to aid them in the administrative process so they are not overwhelmed by it.*

Q. Have you always worked in this area?

A. *I was raised in King-of-Prussia and graduated from Upper Merion High School, followed by a B.A. from Penn State and a law degree from Widener School of Law. I moved to Worcester, Montgomery County, with my husband, Scott, where we have raised two sons. For the past 21 years, I have practiced in Media, Delaware County with Halligan and Keaton. Last year, I opened a satellite office in Montgomery County. As a lifelong resident of this County, I am excited to now be able to aid people closer to my home, in addition to Delaware County. I also serve as a Board Member on the Center for Loss and Bereavement in Skippack, PA, which I find very rewarding.*

We're joining the NAEPC's Every Council Campaign!

As a member of the MCEPC you are entitled to many benefits offered by the NAEPC.

Members will receive:

- Annual NAEPC Advanced Estate Planning Strategies Conference registration brochure (hard copy) will be sent via US mail
- NAEPC News emailed six times per year (past issues of this newsletter can be found at www.naepc.org/events/news)
- NAEPC News will inform your council members about the following items of interest:
  - Existing and new member benefit discount programs (a current list can be found on the "Benefits" page of www.naepc.org)
  - The Annual NAEPC Advanced Estate Planning Strategies Conference
  - The Accredited Estate Planner®* & Estate Planning Law Specialist designations, the two NAEPC-Administered professional designations
  - Councils and/or members in the news
  - Timely and relevant items of interest to council leadership and members

*** Requirements for Accredited Estate Planner® Designation—find out more at http://www.naepc.org/designations/estate-planners**

- Active practice for a minimum of five years within the following disciplines: accounting; insurance and financial planning; law; philanthropy; and trust services
- Devote at least 1/3 of one's time to estate planning
- One or more of the following professional credentials: JD (active law license required if this is the only credential with which you are applying), CPA, CLU®, CFP®, ChFC®, CPWA®, CFA, CAP®, CSPG, CTFA, MSFS, and MST
- Three professional references from individuals with whom you have worked with on estate planning cases and assignments
- Current membership in an affiliated local estate planning council

Additional Requirement for Applicants with 5 – 15 years of Experience

- Two graduate courses provided through The American College

Planning To Age

By MCEPC Board member Bode Hennegan

Much has been written regarding "getting your affairs in order."

Too often planning is geared towards incapacity; a will, power of attorney, and advanced directives are created. What is overlooked is the importance of planning for what happens in the years prior to incapacity. There is a stage between independence and incapacity that require careful planning.

The interdependent stage of aging is when the person can manage their life but needs some assistance because of physical or cognitive decline. During this stage, those who are conscious of their decline may begin to look for family members or trusted providers to perform tasks such as daily money management, yard care, or transportation. This stage can be particularly challenging because not everyone will admit they are experiencing decline or need help. Often with this group we hear horror stories of scams, devastating financial mistakes, car accidents, heart attacks shoveling snow, falls in the house, medication errors, and other incidents.

Why are so many inadequately prepared for this interdependence stage?

The answer: Older Americans are in a whole new predicament - they are living so much longer than their parents, they lack any frame of reference for the extensive planning that aging today demands. Having never witnessed their parents plan for old age, they too, have failed to plan. Often, this is combined with gradual physical and cognitive decline. In the past, a person who had a heart attack would die. Today when someone has a heart attack they survive but often live with diminished capacity. Another scenario is that a person declines at such a slow rate that they don't recognize changes and are constantly adapting to the new status quo. It's often not until a child visits their older parents' home and/or seniors become victim to one of the horror situations that someone gets involved.

Planning to age generally begins by answering the question, where do you want to age? Are you hoping to stay in your home or move to a continuing care facility? Most Americans want to age in their current homes, but they don't fully appreciate the difference between wanting to stay and being able to stay at home. In order to ensure safety, sound financial choices, and power in decision making, careful planning is required.

The first step in planning to age in place is to determine the suitability of the current home. Most likely, some modification will be required which could range from minor changes such as the addition of handrails to major renovations such as adding a bathroom. When home modification options are evaluated and the potential time and costs needed are understood, older adults and their families can begin to plan. Completing this before a crisis occurs saves money and allows individuals to make choices that best meet their desires.

There is no one path for aging. Individuals will move through stages at different paces and with different experiences. Change is constant. Aging continues. The only constant is the need to plan. Careful planning ensures control. Looking to the future with a plan in place lets older adults enjoy every day, regardless of what stage they are in or what tomorrow may present.

For more information on stages of aging go to https://www.life-managers.com/blog

Bode Hennegan of Life Managers & Associates' provides personal assistance services to enable independence. Their newest offering in their A Plan to Age in Your Home is Assess Your Home. A National Association of Home Builders Certified Aging-in-Place Specialist (CAPS) will thoroughly assess your suitability of aging there and will identify modification options, major or minor, to support aging residents.

9th Circuit Affirms Tax Court's Ruling in Kollsman Disregarding the Report of Taxpayer's Appraiser

By MCEPC member Cindy Charleston Rosenberg, ISA CAPP, President and Founder: Art Appraisal Firm, LLC

9th Circuit Affirms Tax Court's Ruling in Kollsman Disregarding the Report of Taxpayer's Appraiser Published August 5, 2019 | Procedurally Taxing Blog On July 26, 2019, The Appraisal Foundation released a press statement urging legal advisors and wealth managers, in light of the recent affirmation of Kollsman v Commissioner, (T.C. Memo. 2017-40) to recognize the primacy of the personal property appraisal profession. The Appraisal Foundation is the nation's foremost authority on valuation services, authorized by Congress as the source of appraisal standards and appraiser qualification criteria. The 9th Circuit affirmation of Kollsman establishes that attorneys and other allied professionals should, as a minimum standard of care, recognize appraising as a professional discipline distinct from other types of art market expertise. From the Appraisal Foundation's release: The Tax Court decision in Kollsman essentially disregarded an appraisal submitted by a high-ranking executive of a premiere auction house as lacking basic qualification, credibility, support and objectivity. The decision relied almost exclusively on the opinion of the IRS expert, who was a relevantly credentialed, professional appraiser. The 9th Circuit opinion found the Tax Court did not err in rejecting the auction house expert's opinion, in part because it was not supported by comparable sales data and failed to consider relevant past sales. In disregard to established caselaw and standard professional appraisal practice, the auctioneer testified that when he arrived at his valuations, he was "not interested" in comparables, and had only reviewed comparables after the IRS challenged his methodology. In finding the auction house appraisal to be "unreliable and unpersuasive" the Tax Court opinion deemed the omission of comparables supporting the valuations to be "remarkable", stating: "we have repeatedly found sale prices for comparable works quite important to determining the value of art". In contrast, the court found the credentialed appraiser engaged by the IRS explained his methodology, relied on comparables, and conducted research as to the impact of the subject property's condition to an expected level of professional performance and objectivity. To help ensure a trustworthy level of professional competency, The Appraisal Foundation's sponsoring professional personal property organizations, the International Society of Appraisers, the Appraisers Association of America, and the American Society of Appraisers, have embraced and are bound to implement the Personal Property Appraiser Minimum Qualification Criteria in issuing credentials to members. Each organization maintains a public registry where the appraiser's level of credentialing, areas of specialization, education and experience may be accessed and confirmed. Members of these associations earn their credentials through a stringent admissions, training and testing process. They are required to comply with IRS guidelines and the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP), are bound to continuing education requirements and to submit to the oversight of their professional organization's ethics committee.

As a member of the Appraisal Foundation's Board of Trustees, I welcome the opportunity to collaborate with the legal and wealth management professions on best practices in identifying and engaging qualified appraisers, particularly for IRS use appraisals. As we see here, every appraisal report submitted to the IRS has the potential to become the subject of litigation. Procedurally Taxing readers are invited to review my earlier post for an in-depth analysis of the implications of the original ruling, and Keith Fogg's earlier coverage of this case highlighting the avoidable perception of bias when engaging an expert seeking any involvement in the sale of purchase of the subject of an appraisal. Last September the American College of Trust and Estate Counsel (ACTEC) Regional Meeting in Baltimore hosted a panel addressing this issue. The feedback from the considerable post-presentation engagement from attendees was that the qualification criteria for real property appraisers are well understood by the legal profession. However, qualification criteria and practice standards for personal property and business valuation experts, sourced by the same authority, are clearly less so, often with devastating outcomes for consumers. In the wake of the Kollsman affirmation, particularly as the ruling applies to the benefits of engaging relevantly credentialed experts for IRS valuations, and critically, the Appraisal Foundation's now public stance on this issue, it will be increasingly difficult for tax and legal advisors to defend engagement of less than fully qualified valuation experts.

***About the author**: Cindy Charleston-Rosenberg, ISA CAPP, is a past President and Certified Member of the International Society*

Appraiser cont...

of Appraisers (ISA), the largest professional organization of qualified appraisers in the United States and Canada. She is an experienced expert witness and writes and presents widely on advanced appraisal methodology issues. Cindy is active in industry activities to raise awareness of the critical importance of meaningful appraiser qualification standards, and currently serves on the Board of Trustees of Appraisal Foundation. The Foundation is authorized by Congress as the source of appraisal practice standards and appraiser qualification criteria. MCEPC member **Cindy Charleston Rosenberg, ISA CAPP** President and Founder: Art Appraisal Firm, LLC will present this topic to the Philadelphia Estate Planning Council on October 15.

Join us October 28, 2019 to welcome our new Evergreen Club members!

Join us at our meeting on October 28, 2019 to welcome our new Evergreen Club members! The Evergreen Club honors long-standing and respected members who have at least 25 years of continuous membership in the Montgomery County Estate Planning Council. We will honor their commitment to the Council and formally welcome them into the Evergreen Club at our October 28th meeting at the William Penn Inn.

Our new Evergreen members:	joined
William Brams	1990
John A. Caprara, Esq.	1993
Charles G. Cheleden, Esq.	1993
Katharine G. Lidz, Esq.	1990
John G. Richter, MT, CFP®, AEP, EA	1984
Ross Schriftman, RHU, LUTCF, ACBC, MSAA	1994

Pre-Retiree Retirement Planning – Managing Volatility, Taxes & Future Needs

Michael C. DeFillipo, CLU

The wealth accumulation phase during an individual's working years is relatively simple: leverage the power of compounding, and, when available, tax deferral to grow your assets over a period of 40 or so years. As your asset base grows, continue to diversify among assets classes and vehicles.

If there's a prolonged market downturn – the S&P 500 dropped 57% between October 9, 2007 and March 9, 2009 - grit your teeth and know that (historically), over time a bull market follows the bear – the S&P gained 271% between that March 9, 2009 trough and December 31, 2018. When you have a 30-year time horizon, the ups and downs of the market roller coaster are points on a graph - merely paper gains and paper losses.

As clients get within the 10/15-year window of retirement, market corrections change from a bad quarterly statement to a true risk for retirement income needs. In an environment with low yields in fixed income instruments and prolonged retirement years as people live longer, the traditional de-risking through a simple reallocation to a more conservative portfolio may not be sufficient to support a retirement lifestyle (with several segments therein of different needs) that may last an additional 30+ years.

The landscape for new retirees and pre-retirees has shifted both in terms of the type of retirement assets and the quality of life requirements from previous generations. The movement away from the traditional pension or defined benefit plan towards a more employee-focused 401(k) world – this puts more of an onus on the individual and their advisors to develop a plan to maximize the flexibility provided through individual retirement assets.

As market-based retirement assets have become the primary source for retirement income, the impact of income tax rates has become an important factor in developing a strategy to maximize the various "buckets" of tax. The conventional wisdom has been that clients will have a higher federal income tax rates during their working years, and they will be in a lower tax bracket once they retire – with more taxable dollars being used to support retirement (bumping up the brackets) and potential higher rates after the sunset of the Tax Cut and Jobs Act (TCJA), it may be prudent for pre-retirees to consider and plan for higher tax rates in retirement. Changes in legislation will also impact the efficiency of leaving behind tax-qualified dollars to the next generation; in both the proposed Setting Every Community Up for Retirement Enhancement Act (SECURE) and the Retirement Enhancement Securities Act (RESA), limits are put on the ability to "stretch" inherited IRA's over an extended period of time. In short, that sizeable IRA nest egg is a giant future income tax liability.

For the pre-retiree, retirement income and tax planning are about more than just replacing cash flow from the working years. As clients transition through the different phases of retirement, various new considerations are necessary, namely the potential need for long term care. People are living longer, medical advancements and the ability to prolong life are progressing every day.

There are over 51 million Americans over the age of 65[1], and 70% of people over the age of 65 will require long term care services and support at some point in their lives[2]. The 2018 monthly cost of care in the Philadelphia area was approximately $12,000[3]. Over the past 15 years, the annual average annual increase (nationally) to the cost of a private room has been 3.16% (54% total)[3]. For clients with a meaningful asset base, government sponsored programs aren't available until the portfolio has been essentially depleted.

Below is a brief sample of the some of the strategies pre-retirees are employing in preparation for their retirement years.

1. Risk and Tax Diversification through Life Insurance

The tax properties of life insurance make it an attractive vehicle to accumulate cash value and distribute income to supplement retirement planning for high net worth individuals.

Funded with after-tax dollars, the cash value grows income tax deferred and can be distributed tax-free in the form of a withdrawal (return of premium) and loan (gain); in this sense, the life insurance "wrapper" is similar to creating a ROTH IRA. However, unlike a ROTH, there are no contribution limits (premium payments), subject to policy limitations.

The crediting mechanisms within the insurance policy can provide an alternative asset class to an equities-based portfolio. The Indexed Universal Life (IUL) product credits interest based upon the performance of a widely held index, such as the S&P 500, on an annual basis. The IUL provides downside protection through a guaranteed 0.00% or 1.00% minimum interest crediting rate (depending upon issuing company). In years where the index performance is below the floor, the policy is credited the minimum interest rate. The IUL chassis allows the cash value to participate in market upside up to a non-guaranteed cap (varied by issuing company). Annual gains are locked in at each policy anniversary, therefore protected against loss due to future mar-

Pre-Retiree Retirement Planning– cont

ket performance.

When comparing the IUL crediting mechanism to the "uncapped" price return of the S&P 500 over the past 20 years (1999-2018), the compound annual growth rate – the rate of return that would be required for an investment to grow from its beginning balance to its ending balance, assuming the profits were reinvested at the end of each year of the investment's lifespan – for the IUL's return is 6.16% where the uncapped market return is 3.63%.

Whole Life (WL) insurance builds cash value through guaranteed increases to cash value along with participation in non-guaranteed dividends. Non-guaranteed dividends rates are determined by the issuing company and are generally a reflection of the company's profit based on investment income and mortality. Dividends tend to be uncorrelated to equity markets.

For the pre-retiree, directing excess cash flow or reallocating a portion of the taxable portfolio to a permanent insurance product may achieve the dual benefit of tax-deferred growth and tax-free income while removing some equity market risk. Since an individual must medically qualify for an insurance product and these income-generating strategies are most efficient after the 15th policy year, clients should consider incorporating the use of life insurance as an asset class within the portfolio several years prior to retirement.

2. Guaranteed Income through Annuities (the "A" word)

Few financial products are as controversial as annuities. As with any type of insurance product or asset class, there are favorable and unfavorable characteristics. Because of the high fees associated with the guaranteed income riders and lack of liquidity, these strategies are most often recommended as a small portion of the overall plan with the function of providing a baseline of guaranteed monthly or annual income.

Deferred annuities are generally structured to include a guaranteed growth and income rider. The concept is to create an accounting mechanism separate from the actual cash value to determine the lifetime benefit; hence we call this account the "Benefit Base". During the accumulation phase, each year the benefit grows and resets to the greater of a) the cash value or b) the stated simple or compound interest factor (guaranteed growth and income) / an increase in an inflation factor (inflation protection). There may be a limit on the number of years the annuity will provide increases to the benefit base under the rider, such as 10 years.

When the owner is ready to monetize the asset, the annuity will payout a percentage of the benefit base for life based upon the age of first withdrawal. At this point, the guaranteed growth and income will cease increasing the benefit base whereas some inflation protection riders will continue to increase the base or payout amount as determined by increases in inflation.

Traditionally, non-qualified dollars were used as the funding source to capture the benefit of tax-deferred growth, however, the marketplace has shifted to using IRA funds as the primary seed for deferred annuities. The reason for this is twofold: First, any gain from the annuity is taxed at normal income rates. By using taxable dollars, while we achieve tax-deferred growth, we are transforming the income portion from primarily capital gains to normal income tax. By using IRA dollars, we are not taking advantage of the already achieved tax deferred growth, but are not negatively altering the ultimate tax impact on future income. Second, due to the desire to let the initial deposit grow over a period of time, using IRA money during accumulation phase has less of a liquidity impact for clients younger than 59 ½.

The shifting a portion of IRA dollars to an annuity is a consideration best evaluated in the pre-retirement years. For the client who is 50 years old, they can achieve the 10-year deferral period to maximize the guaranteed growth rider and initiate income once they are beyond the IRA distribution penalty age. More advisors are planning to turn on income from annuities as early as possible to improve the chances of maximizing the return on the initial deposit.

For example, a $100,000 initial deposit that grows at 8% simple for 10 year and payouts at 4.35% (Age 60) will generate $7,830 guaranteed income per year. Therefore, it will take almost 13 years (now Age 73) for the annuitant to be "in the money" after income is greater than the initial deposit. If the annuitant lives to Age 85, the total gross income from the annuity would be $203,580, which represents a 3.35% internal rate of return on the deposit. The client and advisor should evaluate if this risk-free (subject to claims paying ability of the issuing company) return is viable in the current interest rate environment.

3. Accumulation Annuities

With the prolonged low interest rate environment, fixed deferred annuities have become less of a viable product for accumulation with downside protection. Recent years have seen an emergence of structured variable annuity products that feature a specified holding period (usually 5 or 6 years) during which growth is based off a widely held index with floors and caps.

Like the Indexed Universal Life product discussed previously, these products feature a portion of protection on negative returns – generally absorbing the first segment of loss over the

Pre-Retiree Retirement Planning– cont

tracking period – while allowing for potential in upside return with a cap. The most popular versions of this type of product are either a year-to-year lock or over the entire 5 or 6-year segment. Unlike income generating annuities, structured accumulation products are low cost or even at no explicit cost.

As a planning tool, annuities used for accumulation are positioned to reduce some risk while still in the accumulation phase. Again, because of the liquidity restrictions, these can be employed on qualified assets and eventually rolled into an income generating annuity or reallocated back into the marketable security account.

4. Long Term Care Planning

Using an insurance product as a partial or total funding source for long term care costs can be viewed as providing insurance against the asset portfolio, which could be eroded under a self-insurance strategy. Over the past decade, there has been significant evolution in the design and pricing of long-term care insurance products as the marketplace has moved away from the previously available "stand alone" long term care insurance, which generally featured non-guaranteed premiums and no death benefit and/or cash value.

First made popular by Lincoln Financial, the asset-based hybrid product adopted a life insurance chassis that would provide tax-free distributions for long term care qualified insureds in excess of the death benefit. As a "long term care first" product design, these policies were funded at a minimum death benefit with minimal cash value growth, generally having a return of premium feature should the insurance no longer be needed. The premiums are guaranteed and are often funded in a single premium – a reallocation of cash or fixed income assets – or over a 10-year period from current cash flow.

In more recent years, more life insurance policies have adopted the ability to accelerate the death benefit to pay for qualified long-term care costs. Currently, there are two primary types of riders: 1) 'true' Long Term Care (LTC) rider and 2) a Chronic Illness Accelerated Benefit (CIAB) rider. The LTC rider is underwritten for morbidity prior to issue and may be declined while a life insurance risk class may be offered. The cost for the rider is explicitly added to the base life insurance premium cost; as a result, distributions under the rider are a dollar-for-dollar reduction in death benefit. Conversely, the CIAB rider does not require specific underwriting and is included automatically on most permanent insurance policies. There is no upfront charge or increase to schedule premium; the rider cost is applied on the back end when distributions take place, making the total pool of money available for long term care costs to be less than the full death benefit. The cost of the CIAB rider is based upon the age of the insured when distributions take place and determined on life expectancy tables from that point.

Like any life insurance product, the ability to purchase and cost of long-term care insurance is dependent upon the medical qualification of the insured. As a planning technique for pre-retiree clients, the determination of whether to utilize a hybrid or life insurance policy (if at all) is dependent upon the primary desire for coverage.

The hybrid asset-based based approach will most likely provide more long-term care benefit per premium dollar and less death benefit than a life insurance policy with an LTC or CIAB rider. If using a cash accumulation policy (Whole Life, Variable Universal Life, Indexed Universal Life, Universal Life), the life insurance also provides the ability to grow cash value on a tax-preferenced basis, adding flexibility for future needs.

Of course, all client situations have unique circumstances and needs. The techniques and products discussed in this article highlight only of a small sample of the strategies and planning devices advisors employ when working with the pre-retiree. The themes of shifting risk, evaluating the tax implications of retirement income, and anticipating new potential expenses are critical parts of the planning process for clients that are approaching the decumulation phase.

1. U.S. Census Bureau (www.census.gov/quickfacts/fact/table/US), July 1, 2018.

2. 2019 U.S Department of Health and Human Services (www.longtermcare.gov), 10/10/2017.

3. Genworth Cost of Care Survey 2018, conducted by CareScout®, June 2018

Michael C. DeFillipo, CLU is a Partner of 1847 Private Client Group, in Conshohocken, PA.

Electronic Wills

(The Train Is Comin' Down the Track and There Ain't No Stopping It)

Joel S. Luber, Esquire

To make a valid will, all American states require a person to comply with a set of formalities that trace back to a pair of statutes enacted by Parliament centuries ago. In 1540, the English Parliament passed the Statute of Wills, which gave landowners some freedom to choose how to give away their land at death, and permitted the use of a written will to do so. However, the Statute of Wills did not specify that a written will had to be signed, witnessed or bear any other marks of validity. Over a century later, in 1677, the enactment of the Statute of Frauds tightened the requirements for making a will. To give away land, a will had to be (1) in writing, (2) signed by the testator and (3) signed by three witnesses (i.e., "attested").

Pennsylvania law has never strayed too far from our English heritage. 20 Pa.C.S.A. §2502 sets forth requirements for the form and execution of a will, requiring only that it be in writing and signed at the end. These simple requirements are no different than those that were included in The Wills Act of 1947, and before that, in The Wills Act of 1917. [The requirement of oaths or affirmations of two competent witnesses in order to probate a validly executed Will still exists, which is set forth in Section 3132 of the PEF Code.]

There are good reasons for requiring formalities to make a will. Nevertheless, the traditional will formalities have not adapted to evolving technology in which nearly all transactions—including end-of-life transfers under pension plans, brokerage accounts, life insurance policies, and the like—can be made electronically. Is this about to change concerning wills? Should it be allowed to change? Do we have a choice?

The use of technology in commerce today is, already, very old hat. Statutes such as the Electronic Signatures in Global and National Commerce Act ("E-SIGN"), which Congress enacted in 2000, and the Uniform Electronic Transactions Act ("UETA"), which the Uniform Law Commission promulgated in 1999 and which has been enacted in nearly every state, have firmly established the principle that electronic documents and signatures should be given the same legal effect as paper and ink.

Pennsylvania's version of the UETA is the "Electronic Transactions Act" 73 P.S. § 2260.101 (the "PA Act"). In it, the term "transaction" is defined as "an action or set of actions occurring between two or more persons related to the conduct of business, commercial or governmental affairs." [§2260.103]. However, the PA Act includes a specific exception in §2260.104(b)(1), which reads as follows: "… this act does not apply to a transaction to the extent it is governed by…[a] law governing the creation and execution of wills, codicils or testamentary trusts. As well, E-SIGN also excludes specifically wills, codicils or testamentary trusts. [15 U.S.C. §7003(a)(1)].

Pennsylvania law notwithstanding, the digital world has begun to influence the law of wills, both through statute and nascent case law, showing acceptance of electronic wills. Pointedly, Section 7002(a) of E-SIGN allows for State statute, regulation, or other rule of law to modify, limit, or supersede the provisions of the Federal law. And leave it to Nevada to have been the vanguard in that regard.

In 2000, the State of Nevada enacted a law that allowed an individual to make an "electronic will" [Nev. Rev. Stat. 133.085]. Under this statute, a Nevada electronic will could be created and stored in an "electronic record", so long as it had one unique and unalterable "authoritative copy", and at least one "authentication characteristic" such as a fingerprint, retinal scan, voice recognition, facial recognition, digitized signature, or "other authentication using a unique characteristic of the person". As one might imagine, it was this very strict authentication requirement that made use of an electronic will in Nevada not an inexpensive proposition. Moreover, it just may have been too far ahead of the available technology in 2000. Ergo, Nevada rewrote its entire statute in 2017. The authentication characteristic is now only one of three means of creating a valid electronic will.

In addition to Nevada having revised its existing electronic wills statute, bills authorizing the use of electronic wills have been considered in Arizona, California, Florida, Indiana, New Hampshire and Virginia. Arizona [ARS §14-2518]; Indiana [Ind. Code Ann §29-1-21]; and Florida [Fla. Stat. §732.521 (signed on 6/7/19, but not effective until 1/1/2020] have adopted new electronic wills legislation. And, at its annual conference held in Anchorage, Alaska, on July 12 - July 18, 2019, the National Conference of Commissioners on Uniform State Laws approved and recommended that evey state enact a Uniform Electronic Wills Act.

Case law is also coming online. In at least two other states that have not yet adopted statutes on electronic wills, their

Electronic Wills—cont

courts have nonetheless signaled a willingness to allow technology to be part of the creation, storage or execution of wills. In 2013, an Ohio court admitted to probate a will drafted and signed electronically on a tablet. [*In re Estate of Javier Castro, Deceased*, 2013-ES-00140 (Ct. Comm. Pl. Lorain Cnty., Probate Div., Ohio, June 19, 2013)] In that case, Javier Castro declined treatment while hospitalized, despite knowing that this would result in his death. While still in the hospital, Javier and his brothers discussed making a will. Since they did not have a pen or paper, one brother took a dictation from Javier and wrote Javier's will on an electronic tablet, using a stylus. Javier later signed the will—on the tablet, using the stylus—in the presence of his two brothers. In its decision admitting the will, the court noted that "[the law] requires only that the will be in 'writing'. It does not require that the writing be on any particular "medium". Thus, the court held that the tablet satisfied the legal requirement of a "writing", and that Javier's electronic signature satisfied the legal requirement that the will be "signed" (the electronic signatures of the witnesses were also accepted).

In a case out of Tennessee, *Taylor v. Holt*, 134 S.W.3d 830, 833 (Tenn. Ct. App. 2003), Steve Godfrey wrote his own one-page will on his computer. Rather than printing the will and signing a paper copy by hand, he typed his name at the end in cursive font. Then he printed the will on paper and asked his neighbors to sign the paper document by hand, as witnesses. After his death, a Tennessee appellate court held that Steve had signed his will and that his will was valid. "In the case at hand, Deceased did make a mark that was intended to operate as his signature. Deceased made a mark by using his computer to affix his computer generated signature, and, as indicated by the affidavits of both witnesses, this was done in the presence of the witnesses. The computer generated signature made by Deceased falls into the category of 'any other symbol or methodology executed or adopted by a party with intention to authenticate a writing or record' … Further, we note that Deceased simply used a computer rather than an ink pen as the tool to make his signature, and, therefore, complied with [the signature requirement] by signing the will himself."

In other nations, there have been a number of cases decided in reliance on similar principles as were expounded in the *Taylor* and *Castro* cases, particularly under their salvage doctrines for nonconforming wills. As early as 1996, a Canadian court accepted, as an individual's last will and testament, a word processing document saved on a computer disk. [*Rioux v. Coulombe* (1996), 19 E.T.R. (2d) 201 (Quebec Sup. Ct.)]. In 2002, a South African court admitted to probate an electronic document saved to the hard drive of the testator's employer. [*MacDonald v. The Master*, 2002 (5) SA 64 (N) 84]. In that case, the deceased, Malcolm MacDonald, was a senior IT specialist at IBM Global, where he worked on an office computer that was only used by him and required a password that was changed monthly and sealed in an envelope under conditions of heightened secrecy. The deceased committed suicide and left a handwritten note that read "I, Malcolm Scott MacDonald, ID 5609065240106, do hereby declare that my last will and testament can be found on my PC at IBM under director C:WINDOWSMYSTUFFMYWILLPERSONAL." Upon hearing of MacDonald's suicide and learning about this note, MacDonald's employer obtained his password, printed the will and deleted the electronic file of the will from MacDonald's computer. The court admitted the will to probate under its "rescue provision" (a salvage doctrine resembling the harmless error rule), finding that MacDonald had drafted the document and intended it to be his will.

Australian courts, too, have admitted electronic documents as wills under Australian versions of the harmless error rule. In 2013, a Queensland court admitted the will of Karter Yu, which he had typed on an iPhone. [*In re Yu* (2013) QSC 322]. He had created this document shortly before committing suicide, along with "a series of documents . . . most of them final farewells". The Queensland harmless error rule allows the probate of a "document" intended to be the will of the deceased, provided that such document "purports to state the testamentary intentions of the deceased person". Yu's iPhone document began with the text "This is the last Will and Testament [of Karter Yu]", disposed of Yu's property, named an executor and ended with Yu's name typed "at the end of the document in a place where on a paper document a signature would appear". The court admitted the iPhone file as a will, finding that it satisfied the requirement of a "document" under the applicable harmless error rule, purported to state Yu's testamentary intentions, and was intended to serve as Yu's will.

Conclusion

From this writer's perspective, I view the evolution of electronic wills to be close to the where we are in the evolution of electronic cars, maybe even further along the scale. For the electric car, my own view is that in ten years almost everyone will be driving an electric vehicle. [I already do.] One famous gearhead, Jay Leno, very recently opined publicly that "electric cars are the future". He added: "Steam ran everything from 1800 to about 1911. Then internal combustion took over from 1911 to right about now. And I predict that a child born today probably has as much chance of driving in a gas car as people today have been driving a car with a stick shift".

For many years, Americans have disposed of their nonprobate wealth at death by uploading PDF's, clicking buttons or typing

Electronic Wills—cont

names into a webpage. Indeed, we should expect that anyone comfortable with the involvement of technology in the nonprobate system would consider electronic wills just one more click away. All that needs to be assured is the formalities of execution, and a storage system that is safe and secure. Can that be any more difficult than what is now used with most other electronic accounts that require user name, password, and three or more security questions?

From a policy perspective, a move to electronic wills should also have both tangible and intangible benefits for society as a whole. Such reforms can increase access to quick, inexpensive and convenient methods for executing valid wills. This could encourage more testators to make their wills and engage in other end-of-life planning activities, allowing people to exercise greater choice about property succession. It will also make the benefits of the legal system more accessible to vulnerable populations and to those who have historically been underserved by the legal system. This benefit would be particularly applicable to elderly or ill people who, despite being of sound mind, find traditional estate planning (including a traditional will execution ceremony) expensive or burdensome.

This writer is old enough to remember the halcyon days of bringing clients into my office, with lights dimmed low, the lighting of incense, the presentation of a prestigious designer writing instrument being passed from testator to witnesses to notary, all conversing in hushed tones attesting to the solemnity of the moment. But, as the overarching theme of this Newsletter attests, with millennials and clients even younger who literally hate the idea of paper, I am resigned to acknowledge that those wistful days are clearly long gone. To paraphrase Jay Leno, I predict that a child born today probably has as much chance of writing a will on paper as people today have been using an Olivetti electronic typewriter to write their wills.

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Financial Planning for Generation Z

Victor S. Levy, Jonathan A. Levy and Andrew R. Cramer

On March 10, 1876, Alexander Graham Bell summoned electrician Thomas Watson through a wire, thus communicating the first intelligible words to be uttered through a telephone - 'Mr Watson, come here. I want to see you.' As we read this account today, there is a poignant takeaway from the message itself - that the first use of the telephone device was to apply it as a tool for people to get together. The idea that Bell and Watson should see one another, perhaps to discuss an outcome or to plan the next thing, has relevance for today as a new generation, Gen Z, comes to approach financial planning.

For the last many decades, financial planning professionals have used the telephone as a tool to communicate with clients and to begin the financial planning process – "Mr. and Mrs. Jones, let's get together, please come to my office, I want to see you so we can discuss your plan."

In 2018, the Certified Financial Planner Board of Standards, Inc. introduced new standards for CFP® professionals by defining the financial planning process as "a collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice." Although it was possible to talk about planning concepts in general terms over the phone, among experienced planners it has been well settled that "a collaborative process" requiring "communication" leading to a "recommendation," can only be achieved through a series of face to face meetings. Traditionally, planning meetings are conducted in homes and offices and involve care, analysis and lead to implementable solutions. Moreover, trust and empathy are foundational to the process; elements that human beings historically only experience through personal encounters.

But what would Mr. Bell make of a people whose primary method of communication was not face to face communication, but rather through their phones themselves? If his invention enabled a visual transmission, he might have said – "Mr. Watson, I can see you and you look so clear. How are you doing today? Let's plan what we will do next."

Personal interaction between planner and client is changing

Financial Planning for Generation Z—cont

in the wake of advancements in telecommunications and social media. Face to face meetings are being replaced with virtual meetings, while start-up technology firms try to reach a younger demographic with financial applications designed to teach and support interested savers and investors.

There is no generation that has been more shaped by the advancements in smartphone and telecommunications technology than the current generation which has been named "Gen Z". The population known as Gen Z, are those born after 1996 and it is predicted that they will surpass Millennials as the most populous generation, comprising approximately 32 percent of the entire US population by the end of 2019. Given their size, the market opportunity in helping Gen Z with financial planning is enormous, however, developing an approach for this demographic will likely require a different skill set than in previous generations.

In order to determine how a financial planner or any planning professional should approach this target market, it is important to first understand who they are, and what characteristics they possess. Only by understanding this young generation, can modalities be developed to help them with their planning.

Gen Z – Traits and Characteristics

Generations get their names from various sources. For example, the term "Baby Boomers" originated from the census period of 1946 to 1964 as the "post-war baby boom" came about. Then came the term Gen X, those born between 1965 and 1980, which was attributed to a photographic essay by Robert Capa covering children born up after the war, with the "X" representing the unknown. The term "Millennials," those born between 1981 and 1996 is said to have its origin in the advertising business. But according to the Pew Research Center, the term Gen Z (a term that Pew also refers to as Post-Millennials) is defined as those born between 1997 and 2012, and they possess characteristics that differ from previous generations.

Gen Z possesses four main characteristics, as follows:

1. Undefined ID: An undefined ID means Gen Z generally oppose binaries, believing that one's identity cannot be defined by one term or another. This identification is considered "unidentified" because those in Gen Z tend to constantly change and, with that, redefine themselves.

2. Communaholic: This trait of Gen Z is more than just struggling to keep quiet. In fact, this trait explains the integration of online and personal communication. Online communities have helped Gen Z interact with similar-minded individuals with common interests, regardless of location, level of education or socioeconomic background. This new way of living has opened a strong gate of inclusion that was previously closed for millennials.

3. Dialoguer: A very strong trait of this new generation is the ability to accept other opinions that differ from one's own beliefs. Members of Gen Z typically feel comfortable expressing their opinions and struggle less than other Generations to accept differing views. Gen Z generally feels that one's own opinions should not belittle another person's opinion, even if the views are in opposition.

4. Realistic: Gen Z tends to think realistically, and deals with problems with ration, rather than imagination. Unlike previous generations that believed in the "American Dream," Gen Z thinks more realistically about outcomes of situations and strays from the idea of a possible "dream." In addition to this idea of rationale, Gen Z learns through unconventional methods of consumption – tablets and cell phones rather than newspapers and magazines.

Through these characteristics, a potential future client emerges – one that is constantly changing (Undefined ID), is integrated with social media and online communication (Communaholic), is open to other's opinions (Dialoguer), and learns information through electronic devices (Realistic). This client uses text or written communication as a way of saving time. Instead of waiting for a friend to answer their home phone or respond to a letter, a Gen Z'er will send a text message response to rapidly solve this type of delay.

In sum, an overarching characteristic of Gen Z revolves around the idea of speed and convenience. With a smart phone, a Gen Z'er can make a phone call, send a text message, schedule an appointment, search the internet, set an alarm, and play music in real time. Smart phones have consumed Gen Z and they look to the phone to constantly assist with solving any problem or question, and there lies the entry to the Gen Z financial planning market.

Financial Planning and Gen Z

According to Forbes, Gen Z is on track to become the largest generation of consumers by the year 2020, and they account for up to $143 billion in direct spending. All of this spending and consumerism belies a truth that Gen Z struggles to save money and plan for the future. Because of the instant gratification that is the byproduct of this new age, it subverts the delayed gratification that is at the heart of all estate and financial planning – the allocation of present resources that are set aside today for tomorrow. With increases in consumer-

Financial Planning for Generation Z—cont

ism, many members of Generation Z suffer from the inability to save any resources.

There is a rise in tools marketed to Generation Z, to teach this group how to use money more effectively. For example, an application called **Stash** makes it much easier for someone to invest their money and effectively teaches the risks that come with investing, while allowing actual investing to take place. The app also creates bundles of stocks one can invest in, so it becomes easier to buy shares without the hassle of searching for each company. In addition to having an "Auto-Stash" feature where one can set a reoccurring schedule to invest, the app has a "Learn" tab where one can read articles directed to Millennials and Generation Z about various financial topics.

For help with portfolio management and wealth accumulation, one may turn to apps like **Robinhood** or **Acorns**. Robinhood allows users to invest in stocks, ETF's, options and cryptocurrencies all commission free. Acorns takes a more comprehensive approach, allowing users to invest their leftover change from everyday purchases, save for retirement and monitor their risk tolerance and long-term objectives. Both applications provide news updates, learning resources and even informational videos– tailored to young people with little investing experience.

Similarly, budgeting applications, like **Mint**, are allowing young people to save their money automatically according to their own financial goals. Mint will categorize transactions from linked bank accounts in order to track them against a budget which can be tweaked and customized. The app will give suggestions based on spending patterns, provide information and advice regarding credit scores, and tracks all bill payments.

Can Gen Z Technology Replace the CFP®?

Generation Z is the first group that has grown up in a technology centric world. They have begun leaning on mobile financial planning resources to support them in their financial journey, and we may be at the beginning of when a device or app replaces the face to face meeting that is the touchstone of traditional financial planning. The apps are free, user friendly, and supported by investment professionals, economists and financial planners to ensure users are getting the most accurate and personalized advice. Mobile applications are beginning a small disruption in the traditional financial planning industry as teenagers, young adults, and aspiring entrepreneurs have access to the help they need to reach financial security.

Although human relationship which involves emotion, empathy, and visceral response cannot be easily replicated by machine, humans can use machines in the process of developing relationship. For many potential Gen Z clients, this help may be enough. Trust can be garnered over time between people and though machines cannot replicate this human trust, they can do something that humans cannot do which is provide trustworthy resources on demand 24 hours a day. Ultimately, as Gen Z moves into their working life and become income earners, it is likely that planning through easily accessible resources will eventually replace traditional face to face planning for this generation. Furthermore, for a generation that has grown up communicating through texting and social media, they will likely not need or desire the face to face interaction that is prevalent among most planning clients today who come from the Baby Boomer, Gen X and Millennial generations.

Therefore, with the rapid pace of change in technology, we have begun to witness the process of transition from the traditional face to face financial planning model toward a machine-driven model. Technology advancement is empowering a new generation of Gen Z users by employing traditional savings approaches through delivery systems that can be accessed instantaneously and conveniently via computers, tablets and smartphones. The financial planning industry will likely adapt to these changes in order to stay competitive in a fast growing and competitive space. Although thus far the traditional financial planning business has seen little change in the last decades, as planners begin targeting new and younger markets, they would be well-advised to start to address how they can reach this new unknown client species, formally known as Gen Z.

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Protecting Your Fine Arts, Antiquities And Other Prized Belongings

Mary LeFever

Whether family heirlooms or procured rarities, collectibles can hold a tremendous amount of value, much the same as traditional stocks and bonds. They may even transcend monetary value to their owner. Yet, despite the sentiments that can accompany this kind of investment, collectors often fail to manage the risks involved with their collections —such as natural and criminal disasters—as they might do with more traditional financial investments.

Understanding these risks and how to mitigate them can prevent a world of heartache. It's vitally important to keep your fine arts insurance policies and your appraisals updated. If you add items to your collection, make sure to update your coverage.

The following are seven steps collectors can take to protect their passionate investments:

1. Assemble the right team of experts. Get advice on how to safeguard your collection from your insurance broker, the insurance company your broker recommends and an appraiser. An art conservation laboratory may also be needed, depending on your collection.

2. Establish a system for tracking and valuing items. As your collection grows, it's important to have a system in place. Consider purchasing collection management software to track details such as the name of the object, size, condition, date of purchase and appraisal record.

3. Exercise caution when displaying and storing items. Avoid hanging paintings close to the floor where they are vulnerable to flood waters and damage from children and pets. Never display art above an active fireplace or in areas with the potential for leakage, flooding or excessive sunlight. If wine is your passion, store it in a temperature controlled wine cellar.

4. Focus on safety when shipping and loaning. Use professional, reputable art shippers. If you're shipping by air, consider the TSA Certified Cargo Screening program. It allows certified art shippers to inspect and seal packages and reduces the risk of airport security damaging your items. If you loan valuable items to a museum, have your insurance broker examine the museum's insurance policy to make sure your collection is appropriately covered.

5. Expect the unexpected. Make sure you have functional fire and smoke detection systems and consider installing a waterless fire protection system. Consider investing in perimeter and external security systems. If you need to move pieces from your home on short notice (e.g., during hurricane season), create a relationship with an art transportation company and prioritize pieces for evacuation.

6. Properly insure your items. Too often collectors over-insure against minor risks and under-insure against major ones. Begin by working with a broker who understands how to insure valued collections whether in your home, on loan to a museum, or while in transit. It's also vitally important to keep your fine arts insurance policies and your appraisals updated. If you add items to your collection, make sure to update your coverage.

7. Valued Items Rider. Standard homeowners' policies have minimal coverage for items like jewelry, furs and wine, but a Valued Items Rider covers items worldwide, including during transit and shipping. In case of a loss, the best policies will pay market value up to 50% higher than the scheduled amount of coverage.

Mary LeFever
Vice President, Private Client Services
HUB International Northeast

Dormant Financial Accounts in Italy

Marica Angelides

The clock started ticking for Italian bank account holders in late 2008, subsequent to the enactment of Presidential Decree No. 116 of May 22, 2007. This legislation requires banks with accounts that have been inactive for ten years to transfer those assets to a dedicated fund (Fund for Dormant Accounts), overseen by the Italian Ministry of Economy and Finance. Once these assets have been transferred into this government fund, account owners or their heirs have an additional ten years to identify and reclaim their assets. Assets from dormant accounts began to permanently roll into the government's coffers last November.

Twenty years to get one's forgotten money is a generous amount of time compared to American standards where the timeframe is closer to three or five years, depending on the state and account type. But in the United States, it's possible to reclaim the funds once they've migrated over to the state. In Italy, once the ten years in the government fund has elapsed, so has any opportunity to retrieve the assets. If unclaimed, the money will be used by the Italian government for the public good, such as compensating victims of financial fraud.

Presidential Decree No. 116 of May 22, 2007 lists all the accounts that are subject to the new regulations: checking accounts of all kinds; savings accounts; savings books (from either financial institutions or the Italian Post Office, which also provides banking services); certificates of deposit, and investment accounts holding stocks or bonds. Two exceptions to the ten year window are: outstanding checks, and certain insurance policies. Checks neither deposited or cashed can only be claimed within three years from their issuance. Insurance policies generating revenue need to be claimed by the beneficiary within two years.

After an account has been inactive for ten years, the bank is required to send certified mail with return receipt to the address of the account holder listed in the bank records. In their letter, the bank must provide notice that the ten-year limit has been reached and also make an explicit invitation to take action within 180 days from the date of receipt. In this notice it will be clearly written that if there is no activity within the 180 day term, the account will be closed and the money in it will be transferred to the Fund for Dormant Accounts. According to the above-mentioned law, there is no other burden on the bank to further locate the account holder or eventual heirs.

For Italians in Italy, the process of claiming one's forgotten money, or that of an heir, is relatively simple, and similar to what one would expect to go through in the United States. A series of standard certified documents would need to be presented to the proper banking authorities. Italian banks are especially keen to answer direct claims by legitimate account holders/heirs or their agents, since identifying owners increases the likelihood that the assets will stay with the bank.

Complexity arises when the account holder was living abroad and the heir, also living abroad, wants to get the assets out of Italy. Let's take the case of a resident American national, heir to another American resident who has a bank account in Italy. The claimant's first step would be to file the deceased's US probate in Italy. This step will likely require the assistance of an Italian lawyer whose practice focuses mostly on probate and real estate matters. To support an inheritance claim in Italy, the Last Will and Testament of the decedent is crucial; and if a US resident testator has retained his Italian citizenship, the provisions of the Last Will and Testament must not prejudice the rights granted by Italian law to his or her survivors. These are the children, spouse, or in the absence of children, his or her ascendants, provided that such persons are residents of Italy at the time of the testator's death.

Therefore, the documents required to file an American probate in Italy are: an original copy of the probate and letters testamentary issued by the US court where it was filed; an original copy of the Last Will and Testament (if not already part of the probate) of the deceased; and the death certificate of the deceased. All documents in English must be accompanied by an Apostille and its Italian translation along with a certificate of accuracy for every translation. An affidavit from the heir/heirs with his/their notarized signature, where the claimant states the relationship with the account holder, and a color copy of the applicant's passport are also required.

If an account holder or heir to an account holder isn't sure whether they have assets to claim, they can check an online database, which is managed by CONSAP, the state-owned insurance company overseeing the Fund for Dormant Accounts and its operations. According to the Italian newspaper La Repubblica, from 2010 to 2016, CONSAP finalized 39,780 claims and returned 216 million euros to owners or heirs.

If one discovers funds being held at CONSAP, inquiries can be submitted through CONSAP's website. Inquiries can also be sent by certified mail with a reimbursement claim. The letter can be written in Italian or in English but must have one's signature notarized, and the certified translation must accompany an English letter. Depending on the claimant's nationality and location, additional documents will need to be provided, as previously described.

Ultimately, this change to Italian banking law is most significant for the private financial institutions. Prior to the 2007 law, assets in accounts inactive for ten years became the property of the bank, insurance companies or the Post Office. By August of last year, the government held an estimated two billion euros worth of forgotten money. During the last few months, only 40 million euros have been claimed by account holders or heirs from the Fund, and over 634 million euros of uncashed checks now belong to the Italian government.

The information in this article is entirely for informational purposes. It does not, and it is not intended to constitute legal advice.

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MCEPC Meeting Schedule 2019-2020

- **October 28, 2019—The Exploding World of Guardianships,** *Don Petrille, Jr.*
- **November 25, 2019—"What is it Worth?"** *Panel Format: Valuables Appraisals*
- **January 27, 2020—Economic & Markets Update**—*Ed Boehne*
- **February 24, 2020—The Estate of Hans Solo**—*Jennifer Kosteva, Adam T. Gusdorff*
- **March 23, 2020—Social Security, Medicare, and Prescription Drug Retirement Benefits: What Every Baby Boomer Needs to Know Now—***Jay Burgman, CFP®, AEP®, Northwestern Mutual*
- **April 27, 2020—Ethical Concerns for the Estate Planner,** *Jay Wagner***—***Joint meeting with BCEPC hosted by MCEPC*

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Montgomery County
Estate Planning Council

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Administrator's Corner….

If you have moved or will be making any changes to your membership information (address, email, phone, fax, professional designations, etc.) please notify the office as soon as possible.

More information about the website… We have received a few requests from our members for their "access code" to the MCEPC website. To view and access information on the Council website : http://www.mcepc-pa.org, you **DO NOT** need a login name or password. We currently do not have privileged information on our site and browsing it does not require a login name or password. Only administrative access is password restricted.

Feel free to browse and access the website for information, form downloads, meeting dates and information, and database. You can also pay for meetings and membership.

E-Mail: admin@mcepc-pa.org
Website: www.mcepc-pa.org