The Financial and Estate Planning Council of Metropolitan Detroit, Inc.

January 2018

33006 W. Seven Mile Road, #237, Livonia, MI 48152 • (313) 530-9223 • FAX: (248) 479-0350

President's Message

On behalf of the Financial and Estate Planning Council of Metropolitan Detroit I wish all of you a Happy New Year!!!

I am both proud and humbled to accept the role of President for 2018. In addition to this being the first year of a new federal tax system that will prove to be challenging for every area of practice, we hope to make this an exciting year for our Council.

Our 2018 priority is to provide you with useful and interesting educational content through our five dinner events. As in prior years, our planning committee has selected several great locations. To save money, we have engaged the same caterer to provide our food and beverages for most of our events. Unfortunately, even with the extra effort taken to save money, we can't outrun inflation, so this year's events will be slightly more expensive than those of last year. It should be noted that our organization's event affordability is largely due to the generous consideration of our sponsors. These sponsors support the comprehensive planning process and the value of our members' access to ongoing education. A list of the 2018 sponsors is posted at each event, is included on each event notice and prominently displayed on our website. On behalf of the entire membership, we extend our gratitude to these committed sponsors for their generous support.

Our first event will be in February at the GM Heritage Center in Sterling Heights. Douglas Van Der Aa, JD, CPA will discuss the new tax reform. In May we will be hosting our annual charity golf outing. Back by popular demand, in July we will be touring the Detroit River with our spouses aboard the Infinity. In September we will be educated by Brian Raftery, JD CPA on advanced estate planning issues associated with the tax reform. Finally, our year will conclude in November in Oakland County, where nationally recognized income planning speaker, Tom Hegna, will enlighten our group on advanced income planning techniques.

Our second priority this year will be to focus on our younger member lunch-and-learn events. These events have been highly successfully as they are cohosted by local chapters of many great organizations in the metropolitan Detroit area including the Society of Financial Service Professionals, the Financial Planning Association, the National Association of Insurance and Financial Advisors, and Oakland University. Early this year we hope to host a lunch-and-learn on the general aspects of the tax reform act and how it impacts younger planners and their clients. Throughout the year we will continue with our timely topics. Please watch your inboxes for updates.

Our third priority this year is to enhance our community outreach efforts. We hope to participate in the Planned Giving Round Table event in June by giving our members access to additional educational material and content focused on helping many great charitable entities. As in prior years, we will be hosting our charity golf outing to raise money for a Michigan based charity.

Our most exciting community service effort will be to participate in Estate Planning Week in October by hosting a charity estate planning session for the first responders of the City of Novi. Our attorney members may volunteer to participate and help these hard working first responders assemble simple estate planning documents to help protect their families against the potential loss associated with the risk they take to keep us safe. Last year we worked with the City of Novi to provide a multi session free educational series on financial, insurance and estate planning. These

Welcome to Our New Members

MARK R. ANDREWS, CTFA
JP Morgan Private Bank
Sponsors: Tess Sullivan and Howard Gourwitz

STEPHEN K. ROWLEY, III, LUTCF
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educational events were well attended, and the City employees were extremely grateful for our efforts. It is our goal to continue to support our first responders throughout metropolitan Detroit through our ongoing community outreach effort.

Additionally, this Board strongly supports our national organization, NAEPC. Throughout the year we will be highlighting our benefits associated with NAEPC including access to the annual conference this November in Florida. Through NAEPC, our members may obtain the designation, Accredited Estate Planner. Part of the qualification includes a Board nomination of an interested candidate. Should you have in interest in this designation, please connect with the Board; and we will be happy to walk you through the process.

Finally, the success of this Council rests on the shoulders of our Board Members and committee volunteers who contribute time and resources to help make us one of the top 15 largest Councils of over 200 Councils in the United States. We encourage anyone interested in serving on a committee or on the Board of Directors to reach out to the Board to express your interest. We also attribute so much of our organization's success to our association manager, Kris Wolfe. Without her continuous high level of service, our organization would struggle to deliver the content we all enjoy today.

Please feel free to reach out to me with any thoughts or comments. I recognize that my role is to serve the Board and the Members. I take that role very seriously. jhoenle@mypwmg.com.

Sincerely,

Jeffrey R. Hoenle, CFP®, CRPC®, AEP®

Five of the Hottest Topics in International Estate Planning

Paula Jones

Multinational individuals and families are one of the most misunderstood segments of the wealth advisors' clientele. Planning for multinationals is not only applicable to the super-wealthy, nor only those who live in New York. The recent media storm surrounding the Panama Papers seemed to exacerbate the inaccurate stereotype that anyone holding assets "offshore" must be a tax cheat.

The real issues that all wealth advisors must be able to address for the multinational client, however, are usually far less dramatic. More and more multinational individuals and families are created by the significant increase in international travel to and from the United States, the creation of cross-border businesses, and the migration of employees to and from the U.S. As a result, the seemingly average client may turn out to have personal, business or financial connections to more than one country, such as:

- A U.S. resident's husband dies with an estate valued well above the federal estate tax exemption amount. His Will leaves everything outright to his wife. The wife is now faced with a large federal estate tax bill due to the lack of an unlimited marital deduction afforded to non-U.S. citizen surviving spouses.

- A married executive owns most of her assets in her own name. For estate planning purposes, it is best that she and her husband each own an equal amount of assets. She needs to make large transfers to her husband, who is a U.S. resident.

- A green card holder has been living in the U.S. for about 6 years. He plans on returning to his home country of Germany in the next few years. He is trying to decide when and how to accomplish his goal in the most tax-efficient manner possible.

- A wealthy Russian individual wishes to purchase real estate in the United States. She asks for advice on the best way to title the property prior to its purchase hoping to minimize U.S. income, estate and gift taxes while limiting her personal liability in regard to a tenant's use of the property.

- A couple left the U.S. several years ago without formally giving up their green cards. They also stopped filing U.S. income tax returns. The clients want to see if they are considered non-compliant with the IRS and if so, they want to weigh all of their options in order to become compliant and avoid significant penalties.

- A multinational couple, both born in India, are citizens of the United Kingdom. They own U.S. property and spending a good portion of their time here. The U.K. law deems them domiciled in India but the U.S. law deems them domiciled in the U.K. They look for advice on planning their estate in the U.S. under this scenario.

Five of the Hottest Topics... - continued on page 4

THE FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT

presents

"Tax Planning for Trump Reform: Thinking Outside the Box"

Douglas J. Van Der Aa, CPA, JD

TUESDAY, FEBRUARY 13, 2018

GM Heritage Center
6400 Center Drive, Sterling Heights, MI 48312

A FINAL "THANK YOU" TO OUR 2017 SPONSORS!

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2018 SPONSORSHIPS ARE AVAILABLE!

PRESENTER: Doug Van Der Aa, CPA, JD, is a lively and energetic speaker on the subject of taxes and ethics, and has extensive experience in leading discussions for conferences, seminars and webinars. He is a highly rated speaker and seminar leader for state CPA societies and other organizations throughout the country. Van Der Aa has more than 25 years of experience, including tax practice in CPA firms and the practice of transactional business and real estate law as an attorney. His practice concentrated on the tax needs of closely held businesses, with their related pass-through entities, complex individual returns, estates and trusts. Van Der Aa taught for 10 years as an adjunct instructor and for one year as assistant professor of accounting and taxation for Grand Valley State University's Seidman College of Business, where he taught in both the undergraduate and MST programs.

PRESENTATION: Now is not the time to be complacent about new tax developments. Explore the latest tax and legislative changes unfolding under President Trump and the new administration, and learn how these hot-button issues will affect your individual and business clients. Gain guidance on the latest pass-through entity topics affecting partnerships and S Corporations, as well as key individual Form 1040 and Schedule C issues. Come away with up-to-date tax planning ideas as you head into busy season.

AGENDA:		
	5:30 p.m.	Complimentary Cocktails
	6:30 p.m.	Presentation
	7:30 p.m.	Dinner

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Log onto our website by January 31, 2018 to make your reservation and pay with VISA or Master Card.
www.metrodetroitfepc.org

RESERVATIONS RECEIVED AFTER January 31 WILL COST $85.00 PER PERSON.

OR PLEASE MAIL YOUR RESERVATION AND CHECK BY January 31 TO: **COST: $70.00 PER PERSON**

FEPCMD ● 33006 W. Seven Mile Road, #237 ● Livonia, MI 48152 ● Phone:(313) 530-9223 ● Fax: (248) 479-0350

MEMBER NAME: ______________________ ***GUEST NAME:*** ______________________

TOTAL ENCLOSED: ______________________ **SPECIAL MEAL REQUESTS:**______________________
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The U.S. income and estate tax laws operate differently for multinationals than for purely domestic clients. Every wealth advisor should have at least a passing knowledge of those differences in order to flag issues that must be incorporated into any plan.

1. U.S. Transfer and Income Taxes Have an Extended Reach

The basic rules for federal income and estate tax form the background against which many planning solutions are constructed. The U.S. has a broader reach of taxation than many other countries, even those countries from which U.S. laws have been derived. Here are the basics:

U.S. citizenship and U.S. residency subjects individuals to U.S. transfer tax (estate and gift taxes). U.S. transfer tax extends to all assets, wherever situated in the world, owned by said individuals.1 For those individuals without either U.S. citizenship or residency but with assets deemed to have a U.S. situs (such as real estate and tangible personal property physically located in the U.S.) only those U.S. situs assets are subject to U.S. transfer tax.2

Individuals who have either renounced their U.S. citizenship or residency may still, under certain circumstances, be subject to U.S. estate tax on a portion or all of their future estate. One law applies to those individuals who renounced prior to June 17, 2008 while a different law applies to those renouncing on or after June 17, 2008. The imposition of estate tax applies under slightly different circumstances in the older law versus the newer one.3

U.S citizenship and U.S. residency subjects individuals to income tax in the U.S. as well and it extends to all income regardless of the country from which it is sourced.4 For those individuals without either citizenship or residency in the U.S., but with U.S. source income, only the U.S. source income is subject to U.S. income tax.5

An exit tax may be imposed on 1) individuals who give up their U.S. citizenship or 2) long-term green card holders who give up their green cards, if the renunciation occurred on or after June 17, 2008 ("covered expatriates").6 Capital gains tax is imposed on all unrealized capital gain on a covered expatriate's worldwide assets, after an exemption amount of $693,000 (in 2016) is applied.7 Not everyone is subject to this exit tax, however. A further qualification needed in order to meet the definition of a "covered expatriate" is either a net annual income tax of $161,000 (in 2016) or a net worth of $2 million or more. The U.S. is only interested in imposing the exit tax on those who are considered wealthy.

The definition of "resident" for U.S. estate tax purposes is vastly different than it is for U.S. income tax purposes. A "resident" for estate tax purposes is, a "decedent, who at the time of death, had domicile in the United States." A person acquires domicile by living in a particular location, "for even a brief period of time, with no definite present intention of later removing therefrom."8 A U.S. income tax resident, by contrast, is generally determined in a quantitative manner. Individuals count the number of days they are physically present in the U.S. and if greater than a certain number, according to a formula, they are deemed a tax resident. Green card holders are also automatically deemed U.S. income tax residents.

2. Tax Treaties Can Provide Welcome Relief

There are income tax treaties between the United States and most other countries in the world. However, there are less than twenty estate tax treaties between the United States and other countries.

Most treaties have "tie-breaker" provisions which define issues such as residency, domicile and asset situs - which may be otherwise difficult to discern. Since the laws of more than country may be in direct contrast, a treaty provision can itemize each element of these concepts in order to determine the residency and domicile of an individual and the situs of that individual's assets.

In any planning or administration of a multinational individual or family, the provisions of any applicable tax treaty are crucial. Such treaties can offer a marital deduction when there is none available otherwise; they can prevent double taxation on property otherwise allowed to be taxed under each country's law; and they can also prevent the avoidance of taxation on property that may otherwise fall through a loophole between the laws of applicable countries. The provisions of a tax treaty can negate the need for complex planning in certain areas of the estate. Always check the provisions of any applicable tax treaty before formulating any multinational's estate plan.

3. Non-Citizen Surviving Spouses Have Options

There is a limit to the marital deduction afforded to any transfer – during life or at death – between spouses when the recipient spouse is not a U.S. citizen.9 Only transfers to U.S. citizen recipient spouses are afforded the unlimited marital deduction with which most advisors are familiar. Take note that the citizenship status of the donor spouse is irrelevant. Also, both U.S. citizens and U.S. residents are afforded the $5.45 million (in 2016) federal estate and gift tax exemption amount, so transfers above and beyond this amount are those in need of a marital deduction to minimize transfer taxes.10

The philosophy behind this law is to preserve the U.S.'s ability to tax the transfer of the surviving spouse's inherited assets at her death. Should the surviving spouse give up his or her residency, the U.S. can lose its authority to tax him or her. The U.S. would preserve its taxing authority for a U.S. citizen spouse, however, regardless of the country in which he or she physically resides, due to the reach of the U.S. estate tax upon a citizen's worldwide estate.

Fortunately, a non-citizen recipient spouse has some options to render the transfer of assets to him or her eligible for the marital deduction. First, there may be an estate tax treaty that will grant the marital deduction in the estate of the decedent spouse. Another option is for the surviving spouse to become a U.S. citizen.

Finally, a Qualified Domestic Trust ("QDOT") can be incorporated in the estate plan of the donor spouse to earmark any amount passing to the non-citizen recipient spouse that exceeds the applicable estate tax exemption.11 Fortunately, if there has been a lack of planning on the part of the donor spouse, a post-mortem QDOT is available to the surviving spouse, if needed.

The QDOT must maintain a U.S. jurisdiction for tax purposes, so that regardless of where the surviving spouse may relocate, the U.S. maintains the authority to tax the QDOT assets upon their transfer out of the trust. Any transfer into, or attributed to, the QDOT from the donor spouse's estate is then afforded the marital deduction.

A QDOT does not replicate the same experience for the surviving spouse as obtaining citizenship and receiving all assets outright to manage in whatever way he or she seems fit. The QDOT pays out all current income to the surviving spouse but any principal distributions from the QDOT to the surviving spouse are subject to federal estate tax, except when considered "hardship" distributions.12 A QDOT, while providing a welcome option for whom citizenship is not an option, can still feel restrictive to the surviving spouse.

4. Plan Your Client's Pop Over the Pond

When non-U.S. people wish to eventually become resident in the U.S., they have an opportunity to plan their estate while still exempt from the U.S. transfer tax system. Since non-U.S. people have neither U.S. citizenship nor U.S. residency they are subject only to estate or gift tax on U.S. situs assets (see above). Prior to establishing U.S. residency, therefore, unlimited transfers of assets to beneficiaries, outright or in trust, can be made without incurring U.S. gift tax. (These individuals would need to determine if the country of their citizenship or residency, or countries in which their assets are located impose any transfer or income tax on the transfer.) Once U.S. residency is obtained, these same individuals are subjected to the lifetime gift exemption amount of $5.49 million.13

To extend the benefits of this "loophole", it is recommended that the transferred assets are directed to a U.S. dynasty trust created in a jurisdiction in which the rule against perpetuities has been abolished. Such a trust can keep the benefit of the U.S. transfer tax-free transfer of assets going for many generations.

5. Get Compliant with Foreign Accounts and Assets

In the Spring of 2009, the Internal Revenue Service publicized their intent to enforce penalties against those who had failed to report income on their foreign accounts on their U.S. income tax returns. The Service also went after those who failed to file reporting forms regarding foreign accounts, even if all of the income from those accounts had been appropriately reported and paid in the U.S.

For those taxpayers who have not reported or paid income tax on their foreign income, the IRS's Offshore Voluntary Disclosure Program ("OVDI") may be an option to become compliant.14 The most current OVDI, announced in 2012 and modified in 2014, has no current closing deadline. This program imposes a penalty of 27.5% of the highest balance of unreported accounts, in lieu of most other civil penalties if the IRS finds that the taxpayer acted willfully resulting in noncompliance.15

If, on the other hand, the IRS finds a taxpayer did not act willfully, they offered, beginning in September of 2012 and expanded in June of 2014, a Streamlined Program that imposes only a 5% penalty on the highest balance of unreported accounts, in lieu of most other civil penalties.

In order to prevent the need for either of these programs, advisors need to ensure their clients with any accounts or other assets offshore remain compliant. The Foreign Account Tax Reporting Act ("FATCA") was passed in March of 2010 and clarified the requirements of U.S. persons in reporting their financial holdings offshore. A result of that portion of FATCA directed at individual taxpayers, IRS Form 8938 was created to collect information from taxpayers who had not only bank accounts outside the U.S., but also foreign assets. Form 8938 is filed with a taxpayer's Form 1040 and was first required to be filed in tax year 2011.

Practitioners should also be mindful of the requirements of FinCEN Form 114 (often referred to as the "FBAR" and previously identified as Form TD F90-22.1), IRS Form 3520 and IRS Form 3520-A, which often impact individual taxpayers, trusts and estates in the foreign context, although these forms and reporting requirements have been in existence long before 2010.

Legal issues surrounding the compliance of U.S. persons with foreign accounts or with foreign assets have continued to be a major focus of the IRS. There continues to be ongoing activity and change in this highly complex area of the law, with the risk of stiff penalties at every turn.

Conclusion

As our global environment expands, more and more middle class Americans are venturing outside of U.S. borders in many ways - travel, trade, investment and emigration. Advisors should be in tune with the increasing number of clients who have international components to their personal, business or financial lives.

Footnotes:

1 IRC §2001(a), IRC §2031(a)

2 IRC §2101(a), IRC §2103

3 IRC §877, IRC §877A

4 IRC §2(d)

5 IRC §871

6 IRC §877A

7 IRC §877A(a)

8 Treas. Reg. §20.0-1(b)(1)

9 IRC §2523(i)

10 IRC §2010(a)

11 IRC §2056A

12 IRC §2056A(b)

13 IRC §2010(a)

14 https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures

15 https://www.irs.gov/uac/2012-offshore-voluntary-disclosure-program

Paula M. Jones has almost twenty years of experience advising clients on all aspects of domestic and international estate law for moderate to high net worth individuals and business owners. She opened her own practice in 2016. Paula is currently an adjunct professor at Western New England University School of Law where she teaches International Estate Planning and she has authored several articles in respected industry journals. In addition, she developed a workshop and companion workbook on estate planning basics, titled "Will Power: Wealthy or Not, Your Estate Matters." Her web site is www.paulajoneslaw.com.

Application(s) at least one month prior to your Medicare Part B effective date

Depending on the type of plan(s) selected, one or two applications will have to be submitted to insurers, e.g. Medigap and Medicare D plans must be applied for separately. Contact the insurance company for application information.

Note: For people already on Medicare, the Medicare Annual Open Enrollment begins October 15th and ends December 7, 2016. Changes made during this time will become effective January 1, 2017.

For help, please refer to the following resources:

• 1-800-Medicare (1-800-633-4227)

• www.medicare.gov

• Medicare & You 2016 handbook

• Social Security 1-800-772-1213

or www.ssa.gov

• SHIP for Pennsylvania - APPRISE 1-800-783-7067

• Administration on Aging www.aoa.gov

• Medicare Approved Supplemental Plan Insurers

Note: This article contains a general description of the Medicare program. It does not represent all of the benefits or options available to the consumer. For comprehensive details regarding Medicare, refer to the resources listed above.

Susan Hart Kavanagh is the founder and President of Kavanagh Solutions, a consulting firm specializing in health insurance problem resolution, plan/benefit review and guidance when Clients must select a Medicare or non-Medicare policy.

FPA FINANCIAL PLANNING ASSOCIATION OF MICHIGAN · Society of FSP Financial Service Professionals · NAIFA GREATER DETROIT · NAEPC · OAKLAND UNIVERSITY Professional and Continuing Education

Five Organizations Come Together To Present

"The New Tax Reform Act"
The Basics and Beyond
Thursday, February 22, 2018

Gary Schwarcz, JD

PASQUALE'S RESTAURANT
Mediterranean Room
31555 Woodward Avenue, Royal Oak, MI 48073
(Between 13 and 14 Mile Roads)

GARY SCHWARCZ works primarily in the areas of business planning, estate planning and taxation. He has spoken on numerous occasions to professional groups, including CPAs, on tax topics, including the technical aspects of partnership and S corporation taxation. Examples of legal matters he has handled for clients include the following:

- **Federal and state business tax planning and compliance**
- **Individual income tax planning**
- **Planning, formation, development, operation and tax compliance regarding closely held business entities**
- **General representation of business entities**
- **Tax planning with respect to partnerships, S corporations, limited liability companies and similar pass through entities**
- **Planning and preparation of estate planning documentation**
- **Tax analysis, structure and implementation regarding family wealth transfer transactions**

AGENDA:		
	10:30 a.m.	Registration & Networking
	11:20 a.m.	Buffet Dining
	11:30 a.m. – 12:30 p.m.	Presentation – Q&A

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Log onto our website by February 16 to make your reservation and pay with VISA or Master Card.
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OR PLEASE MAIL YOUR RESERVATION AND CHECK BY February 16 TO: **COST: $10.00 PER PERSON**

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GUEST NAME: ______________________________ **TOTAL ENCLOSED:** ______________________________
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