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

April 2018

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

President's Message

Dear Members,

2018 is shaping up to be an eventful year for the Financial and Estate Planning Council of Metropolitan Detroit. Thus far we have been enlightened on the new tax law through the efforts of our guest lecturer, Doug Van Der Aa, CPA, JD at the General Motors Heritage Center. We also co-sponsored a lunch and learn event focusing on the 2017 tax law through our partnership with NAIFA, Society of Financial Service Professionals, the FPA and Oakland University.

Over the next several months we will also be hosting and promoting a myriad of events including:

May 8 Lunch and Learn Event – An Economist's Overview featuring Martin Lavelle of the Federal Reserve Bank of Chicago - Detroit Branch held at Pasquale's

May 21 Charity Golf Outing & Member Meeting at the Wabeek Country Club. Our featured charity this year is the American Red Cross

June 6 Planned Giving Round Table Development Day Conference

July 17 Social Dinner Cruise aboard the Infinity enjoying the scenery of the Detroit River

September 27 Member Meeting featuring Brian Raftery of Dentons discussing advanced estate planning under the new tax code at Andiamo's Detroit Riverfront

October 15-21 Celebrating National Estate Planning week through our charitable efforts of providing basic estate planning documents to our first responders

October 23 Lunch and Learn Event – Issues with Digital Assets held at Pasquale's

November 1 Annual Member Meeting- featuring our guest speaker, Tom Hegna, who will be discussing retirement income planning

November 6-9 55th Annual NAEPC Advanced Estate Planning Strategies Conference in Fort Lauderdale, Florida

Additional Notes:

Community Service- We continue to enhance our footprint within the community through our charitable efforts. This year we will be supporting the American Red Cross with the proceeds from our Charity Golf Outing. Additionally, we are supporting the first responders and other municipal employees at the City of Novi during National Estate Planning Week. We will be offering free basic estate planning documents to those that keep us safe. Any member interested in participating should contact Kris Wolfe at 313-530-9223.

Young Estate Planners- We continue to partner with other great organizations such as the Financial Planning Association, NAIFA, The Society of Financial Service Professionals, and Oakland University to hold Lunch-and-Learn events encouraging emerging professionals to get involved in our industry through membership in professional societies.

Financial Update - Our association continues to enhance the benefits of membership by holding outstanding educational events at popular and interesting venues. Although we benefit from the generosity of our sponsors, we eventually have to face the pressures of inflation. This coming year we will be slightly increasing the annual membership fee to provide us with the financial resources necessary to uphold our standards.

Jeffrey R. Hoenle, CFP®, CRPC®, AEP®

WELCOME TO OUR NEW MEMBERS

KEVIN GENTNER, CFP
Chemical Bank
Sponsors: Bruce Stone and JR Hesano

DERIC RIGHTER
Schechter Wealth
Sponsors: Bernie Kent and Tess Sullivan

FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT

MEMBER MEETING PRECEDED BY THE 12th ANNUAL GOLF OUTING

(Please refer to the additional Golf Outing Notice)

MONDAY, MAY 21, 2018

Wabeek Country Club
4000 Clubgate Drive, Bloomfield Hills, MI 48302

Cozy Wittman
College Inside Track

"8 Late-Stage College Planning Strategies You Don't Know About But Should"

Education and networking are a way of life for Cozy. She has spent her career developing partnerships and helping others and runs both the College Inside Track parent events as well as professional development for those who work with families with HS students.

Cozy is excited to continue to extend the reach of College Inside Track to connect with organizations and families interested in learning more about the complex college process. She is a mom of 5 and having recently sent her youngest off to school, she is no stranger to the challenge of the search.

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Plante Moran Wealth Management
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Rehmann
Schechter Wealth Strategies
UHY, LLP
Varnum
Warner Norcross & Judd
Wayne State
Wells Fargo Private Bank
Williams Williams Rattner & Plunkett, PC

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 May 11, 2018 to make your reservation and pay with VISA or Master Card.
www.metrodetroitfepc.org

RESERVATIONS RECEIVED AFTER MAY 11 WILL COST $85.00 PER PERSON.

OR PLEASE MAIL YOUR RESERVATION AND CHECK BY MAY 11, 2018 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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FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT

12th ANNUAL CHARITY GOLF OUTING

Net Proceeds and Additional Contributions to
American Red Cross of Michigan

Donate SECURELY ONLINE

American Red Cross

MONDAY, MAY 21, 2018

GOLF OUTING

Wabeek Country Club
4000 Clubgate Drive,
Bloomfield Hills, MI 48302
http://www.wabeekcc.org/
(248) 855-0700

11:15 AM REGISTRATION /11:45 AM: BOX LUNCH/
SHOTGUN START 12:00 PM

18 HOLES OF GOLF WITH A CART/DRIVING RANGE WARM-UP/UNLIMITED COURSE BEVERAGES

4-PERSON SCRAMBLE (INCLUDES DINNER)

$165 PER GOLFER
(SINGLE GOLFERS ARE WELCOME)

$650 PER FOURSOME

$750 FOR A FOURSOME AND A HOLE SPONSOR

$150 HOLE SPONSOR ONLY

5:30 PM COCKTAILS
6:30 PM MEETING & GUEST SPEAKER
7:30 PM DINNER
($70.00 COCKTAILS & DINNER ONLY)

DINNER MEETING:

Please stay tuned for additional information!

Log onto our website by <u>May 11</u> to make your reservation and pay with VISA or Master Card. www.metrodetroitfepc.org
OR PLEASE MAIL YOUR RESERVATION AND CHECK <u>BY MAY 11</u> TO: FEPCMD • 33006 W. Seven Mile Road, #237 • Livonia, MI 48152 Phone: (313) 530-9223 • Fax: (248) 479-0350 • Email: fepcmd@associationoffice.org

Golf Registration:

GROUP NAME:____ GROUP CONTACT INFO:__________________________________

PLAYER #1 ____
PLAYER #2 ____
PLAYER #3 ____
PLAYER #4 ____

☐YES I WANT TO SPONSOR A HOLE ☐ PAYMENT ENCLOSED:______________________

Tax Act of 2017: Double the Pleasure; Double the Fun.

Joel S. Luber, Esquire

Introduction.

With so much already written about "The Tax Cuts and Jobs Act" (herein called the "Act"), no doubt some by our own members, and with our email inboxes inundated daily with descriptions of parts of the Act with specific application to the authors' constituencies, be it the domestic relations bar concerned about the repeal of deductibility of alimony, or the like-kind exchange bar concerned about the repeal of like-kind treatment for all assets except real estate (wonder how that escaped the knife), and with the limited space allotted in this Newsletter, my thinking is we don't need another checklist. Rather, I thought I might laser in on our eponymous council – estate planning.

The Process.

It all started out so innocently enough, with good vibrations and well-meaning intentions, when on September 27, 2017, the Trump Administration, the House Committee on Ways and Means, and the Senate Committee on Finance published a nine-page document labeled "Tax Reform", and subtitled it "United Framework For Fixing Our Broken Tax Code". Its stated goals included:

- Tax relief for the middle-class
- Tax relief for businesses, especially small businesses
- Simplification ["postcard" tax filing for a vast majority of Americans]
- Bringing Offshore profits back to the US
- Broadening the tax base and closing special interest tax breaks and loopholes.

In a mere 84 days, under a cloak of darkness normally reserved for the likes of a Manhattan Project, without any expert testimony, without debate, without one vote from a Democrat in either the House or Senate, with an approval rating from the general public of 33% [CNN poll], and with a projected cost that will add $1.5 trillion to the deficit over the next decade [CBO estimate], Congress passed, and two days later, on December 22, 2017, the President signed, what was then titled "The Tax Cuts [not Reform] and Jobs Act", Senate Bill H.R.1, a massive piece of tax legislation of a scope not seen since enactment of the Tax Reform Act of 1986. Demonstrably, the Joint Explanatory Statement of The Committee of Conference is 570 pages long. But for technical reasons, and perhaps to stop the blushing faces of the architects of same, it is now called "An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018." Catchy!

The Numbers.

The big number: $11,200,000. The Act doubles the estate and gift tax exemption for estates of decedents dying and gifts made after December 31, 2017, and before January 1, 2026. This is accomplished by increasing the basic exclusion amount provided in Section 2010(c)(3) of the Code from $5 million to $10 million. The $10 million amount is indexed for inflation occurring after 2011. Thus, the federal estate, gift and GST tax exemption immediately increases by $5 million. The exact amount of the new exemption amount could be $11.2 million (or just under $11 million), depending upon how inflation adjustments are calculated. A married couple can now transfer $22.4 million dollars gift, estate and GST tax free with the use of intervivos planning or portability.

Here Today; Gone Tomorrow?

In the famous words of Yogi Berra, "It's like déjà vu all over again." Remember 2012, when the $5M exemption was scheduled to expire, to return to $1M, and planners were scrambling to complete asset transfer planning, only to wake up on December "32", 2012 to learn the world did not come to an end, with some clients then regretting having given away $5M? In some ways, planning in the post-Act environment is likely going to be similar. For one, like most individual provisions in the Act, the new exemptions sunset after 2025 and revert back to the law in effect for 2017 with inflation adjustments. Second, one cannot ignore the fact that the Act raises the exemption so dramatically, and there was such a hue and cry to the favoritism shown the wealthy, that it is unclear whether legislators might reduce the exemption in future years (even before 2026), back to current levels, or perhaps even lower levels. [President Obama's Greenbook called for a reduction to $3.5M.] On the other hand, if history can be relied upon at all in this arena, as much as the Federal estate tax, and its total repeal, has been a political ping pong match for decades, there has never yet been a reduction in exemption amounts once they have been raised.

Claw Back.

Remember "claw back"? While there was speculation back in 2012 as to whether there would be a claw back if there was a future change that reduced the exemption amount after making gifts utilizing the higher amount, this issue may have been resolved. The Act includes a conforming amendment to sSection 2010(g) (regarding computation of estate tax), that provides that the Secretary shall prescribe regulations as may be necessary or appropriate to carry out the purposes of the section with respect to differences between the basic exclusion amount in effect: (1) at the time of the decedent's death; and (2) at the time of any gifts made by the decedent. While the regulations to be issued will hopefully clarify that claw back will not occur, practitioners might nonetheless caution clients making new exemption gifts of this possible risk.

General Planning Overview.

As a result, there will be a number of factors to consider in planning moving forward, with some more appropriate than others depending on the level of wealth:

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Certainly, if asset protection or other non-estate tax benefits are the driving motivations, the new exemption should be used as soon as feasible.

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Those clients with estates over $12 million should consider using the new exemption. As the level of net worth increases, the incentive to proactively plan should increase.

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For large estates, the increased exemption should be used, likely in leveraged transactions to maximize the wealth transfers from the increased exemption. For example, if, as some commentators suggest, a 9:1 leverage is appropriate on a sale of assets to a trust, an additional $10 million of exemption for a married couple might support a $100 million sale of assets to irrevocable trusts.

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For more moderate wealth clients who have previously consummated note sale transactions, consideration should be given to immediately funding additional gifts to the purchasing trusts to shore up the economics of those sale transactions. On smaller note sale transactions, that additional $5 million gift might be used to pay off a portion or all of a note, thereby eliminating the IRC Sec. 2036 exposure as to the note.

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Powers of appointment planning should be evaluated. If, for example, a client created a trust and named a not-so-wealthy elderly relative to have a general power of appointment over the trust, or even more so if a client had considered such planning but did not proceed because of the size of the relative's estate, the increased exemption available next year to that poorer relative might enable using a general power of appointment to obtain a large basis step-up on that relative's demise for the client's asset in that trust. And don't forget the alternative with special powers of appointment and intentionally springing the "Delaware Tax Trap".

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For moderate wealth clients, existing documents and planning will have to be reviewed. Many clients with wealth below a combined $22M will be inclined to unravel prior planning. Practitioners will have the task to counsel clients, as this author has had to do over the last three months when total repeal was on the table, as to the value of retaining existing planning from a number of perspectives. Many estate planning strategies provide asset protection benefit, and the transfer tax changes do not minimize the need for that. A cost benefit analysis may have to be run to compare the cost of continuing to maintain that planning to the cost of unraveling the planning, and then having to reconstruct it in the future if the law changes yet again.

Portability.

With recent leniency provided by the IRS on filing late portability elections, will clients be willing to incur any cost to secure portability now that the exemption has doubled? Will clients even be willing to listen to recommendations to file a federal estate tax return to elect portability? Certainly, fewer moderately wealthy clients may be willing to do so. For those clients affected, in the event that the estate tax is reinstated, loss of portability from failure to file an estate tax return on the death of the first spouse can create greater estate tax on the death of the survivor, particularly if the federal exemption is returned to current levels. Those taxpayers with portable exemptions from a prior deceased spouse should consider using those exemptions before a future change in the law may negatively affect them. This could take the form of using that DSUE to fund a domestic asset protection trust ("DAPT").

Non-Tax Planning.

We have already seen that clients with a combined "moderate" net worth of $10.98M have chosen simplistic estate plans that use outright bequests. The term "moderate" may again have to be redefined relative to a combined net worth of $22.4M. Practitioners will have to continue to stress to clients the obvious (to the practitioner, but not necessarily to the client) benefits of trust planning, such as divorce and asset protection benefits. In the absence of any transfer taxes, this may become the primary goal for many trust plans. With increased longevity, the likelihood of remarriage following the death of a prior spouse likely will increase. The need for trusts on the first death to protect those assets may be more important than many realize.

While trusts may afford tax planning opportunities by sprinkling income to whichever beneficiary is in the lowest income tax bracket, will the lower income tax brackets provided under the Act reduce this benefit sufficiently enough to mitigate against this use of trusts? Distributions will still carry out income under the DNI rules of IRC Sections 651-652 and 661-662. Perhaps consideration should be given to making low interest-bearing loans to beneficiaries to repay mortgages loans to the extent the interest on some loans will no longer be deductible under the Act.

Modifying Current Plans.

Those who have not completed, or even started meaningful planning should nonetheless proceed with planning. Estate planning never should have been only about estate taxes. For most people, more wealth is dissipated from speculative investments, litigation, divorce, and improvident heirs than from estate taxes. Properly crafted modern trusts can address all of these concerns and provide sufficient flexibility regardless of whether the increased exemption amounts in the Act remain, or are later revised. By way of example, married clients should consider forming non-reciprocal, spousal lifetime access trusts ("SLATs") to which gifts or sales transfers might be made. Single clients might consider self-settled DAPTs or hybrid DAPTs (one in which a settlor can be later added as a permissible beneficiary) so that the trust at inception is not a DAPT.

With extraordinarily large exemptions, and the availability of valuation discounts (IRC Sec. 2704 Regs. having been withdrawn), grantor retained annuity trusts (GRATs), intentionally defective grantor trusts (IDGTs), and other techniques, practitioners cannot ignore the fact that we are looking at a huge window of planning opportunity. It is possible that in 2021 a new administration and a Congress with a different composition might successfully resurrect many of the Greenbook proposals made by the Obama Administration. But the lessons of 2012 should be remembered, and providing flexibility and access should be critical. At the high levels of the new exemptions, this will be even more important than it was in 2012. Much of the regretted 2012 planning was a result of not providing the client/grantor with a means of reaching assets shifted in the late 2012 planning rush. All of us presumably have learned our lessons in that regard. Now go out there and have some fun (at least before you have to drill down and then explain new Section 199A to your clients – "simplification" that wasn't).

Joel S. Luber, Esquire, is chair of the Estates & Trusts Group at Reger Rizzo Darnall LLP. Joel concentrates his practice in sophisticated estate planning for high-net-worth individuals, asset protection planning, estate administration, Orphans' Court practice, and general corporate and income tax planning.

FEPCMD 2018 CALENDAR OF EVENTS

Tuesday, May 8, 2018
Co-Sponsored Lunch & Learn Event - Pasquale's
"Economy Update"

Monday, May 21, 2018
Charity golf outing followed by member dinner meeting
Wabeek Country Club
Stay tuned for dinner meeting information

Wednesday, June 6, 2018
Co-Sponsored PGRT conference

Tuesday, July 17, 2018
Social dinner cruise
Ovation - Jefferson Beach Marina

Tuesday, September 27, 2018
Member dinner meeting - Andiamo's Detroit Riverfront
"Estate Planning - Flexibility in ILIT Planning"
Brian Raftery, JD, CPA

October 15-21, 2018
National Estate Planning Awareness Week

Tuesday, October 23, 2018
Co-Sponsored Lunch & Learn Event - Pasquale's
"Michigan Law Update Regarding Digital Assets & Social Media"

Tuesday, November 1, 2018
Member dinner meeting & annual meeting
at Oakland Hills Country Club
"Don't Worry, Retire Happy! Seven Steps to Retirement Security"
Tom Hegna, CLU, ChFC, CASL

November 6-9, 2018
NAEPC conference in Ft. Lauderdale, Florida

Please visit:
http://www.metrodetroitfepc.org
for complete event information
& registration details.

FPA OF MICHIGAN FINANCIAL PLANNING ASSOCIATION

Society of FSP Financial Service Professionals

NAIFA GREATER DETROIT

NAEPC

OAKLAND UNIVERSITY Professional and Continuing Education

Five Organizations Come Together To Present

"Economic Update"
Tuesday, May 8, 2018

Martin Lavelle
Business Economist
Federal Reserve Bank of Chicago, Detroit Branch

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

Martin Lavelle is a business economist in the research department at the Federal Reserve Bank of Chicago's Detroit Branch. Lavelle's job responsibilities include economic research, education and outreach. His research revolves around the Michigan economy and its impact on the District and national economies. Specific topics include the auto industry, consumer spending, business activity and the U.S.-Canada border as well as working on the District's contribution to the Beige Book. Also, he speaks to economics classes at area colleges and high schools. He has been an advisor and judge in the High School Fed Challenge Competition. In February 2012, Lavelle began a series of evening workshops for teachers and educators entitled "Night at the Fed" in which attendees learned more about economic entities and concepts that can be incorporated into classrooms and seminars. Lavelle serves as a contact for Michigan partners in the District's Money Smart Week® initiative, which promotes financial literacy and awareness among consumers. In addition to his Federal Reserve work, Lavelle teaches managerial economics at the University of Michigan-Dearborn and volunteers with Junior Achievement, teaching high school students about entrepreneurship. Lavelle received his B.S. in business and M.A. in economics from Miami University in Oxford, OH.

AGENDA:	10:30 a.m. – 11: 15 a.m.	Registration & Optional 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 May 2 to make your reservation and pay with VISA or Master Card.
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COST: $10.00 PER PERSON

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MEMBER NAME: ______________________________ **COMPANY NAME:** ______________________________

GUEST NAME: ______________________________ **TOTAL ENCLOSED:** ______________________________
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Livonia, MI 48152

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