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The Tax Relief Act of 2010 Implications of Capital Gain Taxes

by Michael E. Kitces
FPA Maryland

In the coming months, we will feature articles from guest speakers who will be speaking at the 2011 FPA NorCal Conference. We are pleased to welcome back Michael Kitces, consistently one of the highest rated speakers. Michael will be presenting "Revisiting Modern Portfolio Theory" at the conference. Michael is an asset to our profession and his expertise crosses into numerous fields of study. Today we are sharing an excerpt from his article on the Tax Relief Act of 2010. If you have not visited www.Kitces.com, you are missing out on one of the industry's best resources available to advisors.



Michael E. Kitces is a member of the FPA Maryland, the Director of Financial Planning for Pinnacle Advisory Group in Columbia, Maryland, and the publisher of The Kitces Report.

Ending an extensive period of tax uncertainty – at least for a little while – the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 was signed into law by President Obama on December 17th. The legislation, a compromise between the Democrats and Republicans on tax brackets, extension of various tax expenditures,

estate taxation, unemployment benefits, and more, brought a great deal of clarification about the tax situation for 2011 – and just in time, too, as it came only two weeks before the end of 2010.

Capital Gains Taxes

Prior to the implementation of JGTRRA, the long term capital gains maximum tax rate was 20%, which was reduced to 10% for long-term capital gains income falling in the bottom two tax brackets (i.e., in the 10% or 15% ordinary income tax brackets). With JGTRRA, the 20% and 10% rates were reduced to 15% and 5% rates, respectively. In addition, the 5%

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2011 FPA NorCal Conference

Tuesday, May 31 & Wednesday, June 1
The Palace Hotel in San Francisco
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The Tax Relief Act of 2010 Planning Implications

Cont'd

rate was scheduled to be reduced to 0% in 2008 (i.e., the tax rate applicable to long-term capital gains falling within the bottom two tax brackets in 2008 would be 0%).

Under the Tax Increase Prevention and Reconciliation Act of 2005, enacted with President Bush's signature on May 17, 2006, these preferential long-term capital gains tax rates were extended to expire at the end of 2010, instead of the end of 2008.

If the current long-term capital gains tax rate provisions of JGTRRA and TIPRA expired at the end of 2010, the rates would have reverted back to pre-JGTRRA levels of 20% (and 10% for those in the lowest tax bracket), with the reinstatement of special "ultra-long-term" rates of 18% and 8% rates for 5+ year holding periods for property purchased after January 1st, 2001.

Under the Tax Relief Act of 2010, the current 15% and 0% tax rates for long-term capital gains are extended until the end of 2012, at an estimated cost of \$25.9 billion.

With the risk of a significant rise in long-term capital gains tax rates – paying taxes of \$20,000 (20%) per \$100,000 of gains is a 33% increase in taxes due over just a \$15,000 liability (i.e., a 15% rate) – many planners and clients were considering aggressive steps to fend off the potential impact of higher taxes. The most popular strategy in this regard was "harvesting gains" before the end of the year: selling a security with a gain, reporting the gain, and then repurchasing the original security shortly thereafter (no requirement to hold something else for 30 days in this case, as the "wash sale" rules only apply to harvesting losses, not gains). The idea was fairly straightforward: if the property was going to get sold in the next few years anyway, pay taxes at 15% rates now, rather than deferring gains into future 20% tax rates.

Given that tax rates are now scheduled to remain in place for at least the next two years, the urgency of harvesting gains is greatly diminished, at least in the near term. If property was going to be sold in the next two years anyway, it generally still pays to defer the income and

the taxes until the future, allowing the time value of money to work in the client's favor, with tax rates that are no longer scheduled to change. If property is going to be sold in 2013 or beyond when the rates are scheduled to go higher, it likely still pays to wait a little (at least until sometime in 2012), both for the value of another 1-2 years of tax deferral, and because it is always still possible rates will be extended further when the time comes. Notably, though, the risk of higher long-term capital gains tax rates is still a disincentive for deliberate steps for significant tax deferral, such as installment sales that recognize gains ratably over a period of several years (with whatever tax rates apply in those years); clients completing significant sales, including possibly and perhaps especially a business, may wish to be cautious about stretching income and payment out over a large number of years, as the value of tax deferral may be outweighed by higher tax rates. Receiving shorter-term lump sum payments (or simply electing out of installment sale treatment) should at least be considered.

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What Keeps You Awake at Night?

What do you worry about?
 What challenges are you facing in your business?
 What issues get your blood pumping?

We'd like to know so that we can ask our fellow FPA members to write interesting articles. We'd also like to hear your complaints and compliments. We would like to provide a forum for additional interaction, so now you can send a "letter to the editor" of *The Planner* at Editor@FPANorCal.org.

We believe that collaboration among our members and chapters provides numerous benefits to our members. *The Planner* newsletter is published on a monthly basis thanks to the volunteer efforts of more than one dozen FPA members from five FPA chapters in Northern California. Let us hear what you have to say!

The Tax Relief Act of 2010

Cont'd

On the other hand, for clients who are in the lowest two tax brackets – and therefore eligible for the 0% long-term capital gains tax rate – harvesting gains is still very appealing, as even if tax rates remain level, 0% taxation is still 0% taxation! Accordingly, clients in this tax bracket can essentially sell property, report a capital gain, purchase the security back, reset their cost basis to a higher level to reduce future taxation, and owe \$0 in taxes in the process! In reality, because the income reported from capital gains is still above the line income and affects Adjusted Gross Income (AGI), the net tax impact often is not \$0, because 0% capital gains income may still cause some phase-outs, inclusion of Social Security benefits, etc.; nonetheless, the effective tax rate is still so low that harvesting gains at "0%" tax rates is highly appealing any/every year it is available.

It is also notable that in light of the appeal of harvesting gains in current or future years if 0% tax rates are available, and the ongoing "risk" of higher taxation beyond 2012, planners should also be very cautious about harvesting capital losses in the current environment. In the traditional tax planning word, harvesting losses is a favorable way to accelerate the time value

of money – by claiming a tax loss immediately, and reporting the gain when the security recovers at a more distant point in the future. However, in reality the economic value of tax loss harvesting is often extremely modest and in a rising tax rate environment it can actually be harmful. Losses that are harvested now and offset against current gains cannot be used against gains in the future when tax rates are higher; thus, harvesting a loss today (and resetting the cost basis lower) that creates an offsetting gain in the future could generate a loss at today's lower rates and a gain at future higher rates. This may be especially damaging if the loss applies against a 0% capital gains tax rate, while the future gain is anything higher than 0%. Planners may also wish to be cautious about harvesting "excess" losses that will knowingly be carried forward into future years, as the requirement that carryforward losses automatically apply against gains may unwittingly "force" clients to use carryforward losses against 0% or low tax rate capital gains, instead of simply preserving the loss by keeping the security and selling it for a loss – or less of a gain – in the future.

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President's Column

by Seth P. Shapiro, JD
FPA San Joaquin Valley

I have been assisting clients in drafting wills, family trusts, and powers of attorney since being admitted to the bar, but until this weekend, had not yet prepared an estate plan my own family. It's not that my wife and I haven't given it a great deal of thought or that we were simply procrastinating. What has held us up is picking an appropriate person or persons to serve as successor trustees of our family trust. In my years of practice this has been a common issue for many of my clients – who should I name as trustee?

The role of trustee can be complicated and often thankless. Trustees must wear many hats. They are responsible for investing the assets placed in the trust in a fiduciarily responsible manner, making distributions to the beneficiaries, keeping detailed records, potentially filing reports with the court, and filing tax returns, among other duties.

Many people choose family members or family friends who will waive (refuse) the trustee's fee to which he or she would be entitled—and which comes out of your Trust. These individuals are often motivated because they have a personal stake in the trust's success and they have the benefit of possessing insight into your beneficiaries' needs. If the family member is competent to handle the financial matters involved, has

the time and interest to do so, and if you're not afraid of family conflicts if one or more relatives are named as trustees, naming family members as trustees can be a good move for a trust. If you do make a relative a trustee, be sure to consider who the successor will be in the event of death, incapacity, divorce or other family strife.

Another approach, which is especially useful if you foresee any future conflicts between beneficiaries, is to appoint someone with no potential conflict of interest—that is, someone who doesn't stand to gain from the trust. For this reason, some testators name a bank rather than name family members or business partners. Banks are permanent institutions that can manage your trust for decades. They also have professional knowledge of and



Seth P. Shapiro, JD
President FPA San Joaquin Valley

experience with investment options. They're objective and regulated by law. If you question the honesty or reliability of friends or family members, a bank is the usual preference; and it can handle the investments, tax preparation, management, and accounting. This helps avoid will and trust contests from disgruntled relatives who might accuse the trustee of cheating. If you have several beneficiaries who don't get along, you may want an outside trustee who's independent of all factions. The primary drawback of a professional trustee, of course, is the cost involved. Where there is little possibility of a contest, the fees that paid trustees charge may make it too expensive to hire outsiders.

Whether you decide to go with a professional trustee or a loved one, there are a number of qualities you want to look for. First you want to choose a person that is both responsible and honest. You also want to choose a person that has sufficient time to serve in this capacity as well as the financial savvy to manage securities, real property, closely-held businesses, or whatever type of assets you are leaving behind. Finally you want to be sure to name someone you expect to survive you – while your great uncle may be a financial wizard; odds are you are going to be here longer than he is.

As for my wife and I, we finally feel comfortable with our choices and feel secure that our children will be well provided for in the future.

San Joaquin Valley Chapter Executive Director

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President's Column

by Bob Adams, CFP®, MBA, MSFP
FPA Silicon Valley

Welcome to April and for those working with their tax clients I'm sure you are counting the days to April 18th. For those of you doing your own taxes the calendar has given you a gift this year and you have a reprieve until the 18th. I did a financial plan for a client a few years ago and when looking at her old tax returns I asked her about why she always filed an extension, her response was that she always filed her taxes "the day before they'd sent her to Sing-Sing for non-payment".

In January, the Silicon Valley Board voted to add a "Member-at-Large" Board position to the Chapter Board. Other FPA Chapter Boards of Directors (The East Bay Chapter is an example of one local

Chapter) have a Member-at-Large Board position so this is really not a new idea. I had suggested this to the Board because I believe it is a very effective way to introduce Chapter members to the Chapter Board Governness process without having responsibility for a Board Directorship and committee. This aids the Board in our on-going succession planning process. Board members other than the President, Chair, Treasurer and President can serve for a maximum of 5 years, but generally by custom serve for 2-3

years and by custom are also responsible for identifying to the Board their replacement. Ideally, but not always, new Board Directors have been either the Vice-Chair of a committee or very active on committee. The new "Member-at-Large" Director will not have a committee, but will be expected to continue to be actively involved with their current committee.

I'm pleased to announce that Artie Green, CFP® with PWJohnson Wealth Management of Sunnyvale has been nominated by the Board for the Member-at-large position and he has accepted. Under our Chapter By-laws any Board replacements or new positions within the year are ratified by a vote of the Board. If Artie decides to stand for election in the Member-at-Large position in 2012, he will be voted upon in the same fashion as all other Board members as per our Chapter by-laws.



Bob Adams is the President of the Silicon Valley FPA. Bob has served on the board for the past 3 years and he is President of Armstrong Retirement Planning in Cupertino

I also wish to announce that Dave Samuels, CFP® of Wealth Management is retiring as Chapter Director of Programs after 2 years. We wish to thank Dave for his service to the Chapter. Programs is an integral function of the chapter and we appreciate his past service and leadership.

I am pleased to welcome Ted George, CFP® of George Financial Advisors of Scotts Valley to the Board as the new Programs Director. Ted has been a long-standing member of the Programs Committee and we welcome him to the Board and we thank him for his

continued service to the Chapter.

Volunteer service to the Chapter is in fact the lifeblood of our Chapter or in fact any not-for-profit organization. Silicon Valley's Board and all committee members are volunteers, with the only paid position within the Silicon Valley Chapter is our part-time Executive Director, Marion Briggs.

The Chapter's "Do 1 Thing" program asks each Chapter member to consider volunteering time to help the Chapter by, you guessed it, "doing just one thing". Introduced by Marion Briggs and modeled after the best practices of the FPA Chapter of Massachusetts, the program has been very successful in bringing in new volunteers. For a list of Chapter volunteer opportunities please contact President-Elect Eric Solve and see a description of volunteer areas: www.fpasv.org/community/fpasv-news/24-articles/87-do-1-thing

We thank all our volunteers and we ask all of our members to consider getting involved in their Chapter. I can tell you from personal experience that it is very rewarding.

Take care and have a great month.
-Bob

Do 1 Thing.
One Thing Leads to Another.

**Silicon Valley Chapter
Executive Director**

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Marion Briggs
execdirector@fpasv.org
877-808-2699

New address? Has your membership information changed?

Silicon Valley FPA Brown Bag Lunch Event

Note: Silicon Valley FPA Brown Bag Lunch Events require FPA membership to attend. FPA members from other chapters are welcome to attend as well as guests of FPA members.

Advanced Roth IRA Planning

Speaker: Larry Pon, CPA, Pon and Associates

Date: Friday, May 20th, 2011

Time: 12:00 noon to 1:30 pm

Location: San Jose, CA (Rose Garden Area)

Cost: \$10

So you or your clients converted their traditional IRA to a Roth IRA - now what? If you or your clients did a Roth conversion in 2010, or are planning to do one in 2011, you should attend this session. You will learn more about your options with a Roth, including when to report the conversion income, whether or not to re-characterize, and how to position your Roth IRA for future growth in the "New Normal" economy. For a discussion of these issues among others and answers to your questions, please join Larry Pon, CPA for an interactive session on this intriguing and timely topic.

Seating is limited. To reserve your seat, please RSVP early to Dan Taylor at DanTaylor@Yahoo.com A \$10 fee will be collected at the door.

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FPA Silicon Valley Chapter Meeting

Get Credit – For Rescuing Clients Panel presentation and discussion

Date:

April 8, 2011

Time:

11:30am - 1:30pm

Location:

TechMart, 5201 Great
America Parkway, Santa Clara

CE credits:

1 hr CE available pending approval
by the CFP Board

Cost:

Early Registration

\$35 members \$40 non members.

At the door

\$55 or members, \$60 non-members

Overview:

No client is immune to financial reversals, including foreclosure and bankruptcy. This timely look at foreclosure, short sales, bankruptcy and credit repair will help you rehabilitate clients in deep water and in dire need of your advice.

In this moderated panel discussion, we will cover the options for clients bleeding cash, the details of who qualifies for bankruptcy protection, how to avoid the worst hits to their credit rating, and how soon it can be restored.

Learn what can be done, which allied professionals can help, and what life holds for a client as they repair their credit.

Presenter's Bio:

Panel: Natalie Knowlton, Director of Short Sales, Nick of Time Results Team. Los Altos. Hannah Fliegel, Credit Restoration Expert, Corte Madera.

David B. Rao, Partner, Binder Malter, San Jose.

Moderator: David Beck, CFP®

How to register: Register now via credit card at www.fpasv.org

For more information: www.fpasv.org

This meeting is sponsored by iShares

*For information on future meetings please refer to the Chapter Meeting Calendar at the back of this issue.

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Factors Buyer & Sellers of Businesses Consider

by Andrea Roland, CFP®
Monterey Bay Chapter

*This month's column is being written by our long-time member, **Todd C. Ganos, JD, CFP®** of Doolittle & Ganos Investment Counsel, LLC.*

Do you have a client who is thinking about selling his or her business? What makes a good deal for both the buyer and the seller? It is more than just price. Often it is legacy. Sellers want their business sale to be good for their employees and customers. Sellers do not want employees and customers to ask, "What the heck did he do to us?" To that end, sellers are conscientious about to whom and how they sell.

There are three basic factors that buyers and sellers consider in a business sale: strategic fit, geography, and price... in that order. Strategic fit is comprised of several elements. Are the buyer and seller in the same industry or is the buyer entering a new industry? If the buyer is in the same industry, do the two companies serve similar or different types of customers or clients? Do they offer



Andrea Roland, CFP® is with Wealth Architects, LLC in Mountain View.

similar or different types of products or services? Are those products or services complementary... is there synergy? Are there economies of scale? Are there cost reductions as the result of a sale? Do the two companies use similar processes? Do the companies have similar or contrasting cultures? If the buyer is not in the same industry, do the two industries complement each other? Are there cross-selling opportunities? How difficult will it be to integrate the operations of the two companies? Ultimately, sellers want their customers or clients to be taken care of.



If there is a strategic fit, the buyer and seller move on to geographic fit. Often the two companies will be in the same geographical region. If not, there must be a compelling reason for the acquisition. Perhaps the buyer has dominance in one region and is seeking to incrementally expand its geographic foot-

print. As such, the buyer seeks to expand into an immediately adjacent region. Alternatively, the buyer might have a presence in every major city in a state except that of the seller. An acquisition in the seller's city might complete a level of presence that the buyer desires. Or, perhaps the buyer already has clients in the seller's city and seeks to provide a local presence for existing customers or clients. Absent some level of geographic rationale, the deal probably won't make sense.

Only after the buyer and seller have determined that they have a strategic fit and a geographic fit does a discussion about price begins. Invariably, buyers think they are paying too much and sellers think they are getting too little. Price depends on many factors such as how the business is structured, how efficiently the business workflows operate, how dependent is the business is on a soon-to-be-retired owner, problems areas uncovered during due diligence, who is buying the firm, how the sale is structured, and tax considerations. In the end, it is best to obtain an independent appraisal of your firm's value prior to preparing for sale and again once you are ready to sell.

Monterey Bay Chapter Executive Director

Monterey Bay
Carol Murray
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831-594-2292

New address? Has your membership information changed?

FPA Silicon Valley Chapter Meeting

Working With Clients in This Economy Brown Bag Group Discussion

Date: April 28, 2011	Time: 11:30am - 1:30pm	Location: First National Bank's Community Room	CE credits: 1.5	Cost: N/C	How to Register: Carol Murray clmurray3@aol.com
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Of Competition, Value and Choice

by Ralph Latza JD, LL.M., CFP®
 President's Column
 FPA San Francisco

The days of prospective clients signing on the spot have changed. Consumers are now considering three or more financial planners before they decide. According to Russ Alan Prince and David Geraciotti, in "Cultivating the Middle-Class Millionaire", over forty percent of clients with investible assets between \$2 million and \$6 million have three or more advisors. The time for decisions has also lengthened, from days to weeks, sometimes months. As consumers become more prudent and thoughtful, planners face a growing sense of uncertainty. How do we react to this increased competition within our community?

For some planners, once the offer is made to the prospect, it is on to the next. Let's call this the "out of our hands" model. The planners have, presumably, put their best foot forward. The mindset is often that when ready, the prospect will become a client.

This wait and see mindset leaves many planners wanting, especially with the growing number of choices available to prospects, and the growing desire of consumers to explore their options. Some planners may seek to maintain contact with the prospect, to react to what others are offering. This is the

drip method, with the potential to become the "price-match" guarantee. Where is the consumer?

Consumers are often hard-pressed to differentiate between those in the financial services industry. The title of "financial planning" is readily available to all who can claim it. The shift to a fiduciary standard carries with it greater responsibility and greater accountability for the planner. For the sake of this discussion, let's assume all those vying for business will offer similar levels of planning. Truthfully, unless you are able to distinguish yourself in your initial meetings with prospects, financial planning becomes "commoditized" in the mind of the public—the "blah blah blah" of what we can deliver begins to sound like everyone else.

So Jane and John Q. Public continue their search. The investment compo-



Ralph Latza, JD, LL.M., CFP® is the President of the San Francisco Chapter and a wealth advisor with Private Ocean in Marin.

nent gains in importance, because return is tangible. The irony is that the investment piece, with the advances of ETFs, index funds, and DFA, and the options for outsourcing, has become the commodity in the industry. Smaller firms lack the time and resources to devote to what can be a very complicated area. Those want-

ing to do everything for the clients often resort to plug-and-play portfolios as a necessary time savings.

When faced with this consumer, financial planners face a business decision: Do we compromise on the proposed fee?

For those who charge an extra fee for financial planning, the choice may be to reduce or waive the fee. "We can make up the difference in investment management fees over the years," or so goes the theory. For other firms, financial planning may already be folded into the investment management fee.

The impact of either of these scenarios is that the planner does not charge specifically for the planning advice which is being delivered to the clients. When firms do not charge for financial planning, or when they compromise the fee, clients do not see the cost in the planning provided. This is not to say they do not appreciate the planning as performed. This is about the public perception about where their dollars are spent. If planning is part of an investment fee, then the planning becomes more of a throw in, than a value of its own accord. If financial planning fees can be bargained away, consumers will not equate the benefits with the cost.

Let's face it: planners have a built-in bias for increasing the financial wealth of clients. There is an odd dichotomy at work with what we do. We want our clients to enjoy the greater things in life, beyond money, but we value clients because of the amount of money they have.

Financial planners, for better or worse, put a premium on monetary accumulation. When starting out, an

Cont'd next page

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New address?

Has your membership information changed?

Of Competition, Value and Choice *Cont'd*

advisor will take any client who can fog a mirror. As the practitioner settles into his or her role, client minimums rise, the numbers of clients fall, and more time is created for the planner. The firm grows in both assets under management and the number of staff.

Mark Tibergien, among others, has offered studies to show what happens with firm profits as size increases. The awareness and application of these studies are seen as keys to running a successful business. Bob Veres has written about the merging of smaller firms as a business suc-

cession strategy. Owners naturally want to take care of themselves, their families, and their staffs. These practice management skills extend to the categorization of clients based upon their value to the firm. Those who contribute more revenue receive greater levels of care and benefits. Whether we use letters (A, B, or C), metals (Gold, Silver, and Bronze), or animals (lions, and tigers, and bears, oh my!) to differentiate service, we reward wealth.

Certainly, the branding of a firm requires such striations. John Bowen, of CEG Worldwide fame, shares a story of how a wealthy client getting her hair done discovered that her hairdresser had the same financial advisor as she. Oh my, indeed! The

feeling of "exclusivity" has appeal to some clients, as well as to many offices.

Yet when financial planners start valuing some clients over others, there becomes an internal tension between business considerations and financial planning. Some clients become "better" than others, and the level of attention deviates. Instead of a farm system structure, where less experienced advisors can over-service these less profitable clients, existing firms cling to these early clients as legacy relationships.

Is "good enough" enough for clients?

In their book, "Tribal Leadership", Dave Logan, John King, and Halee Fischer-Wright take a look at the development of culture within groups.

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Of Competition, Value and Choice *Cont'd*

The authors have found that the most successful firms have a higher level of in-group cooperation. One example, the biotech firm Amgen, was cited as a transcendent culture, which went beyond the typical view of competition. Instead of focusing on another company or dealing with internal strife, Amgen saw itself as competing against cancer. Such high aspirations are able to rally the members of the team to achieve even greater results.

The recent success of the Financial Planning Days in San Francisco, and throughout the Bay Area and nationwide, highlight what is possible when the community of financial professionals bring together resources to create something larger than what they can accomplish on their own.

Financial Planning Day was part of a visionary campaign, unifying the Conference of Mayors, the CFP Board, the Foundation for Financial Planning, and FPA, in providing one-on-one financial planning to those in need. The focus was solely on the needs of the attendee, without pressure to sell, without identify differences between fee-only, fee-based, and commission, without the need to close the deal. The competition is the financial needs of the public. Those who have participated see how the focus on the greater good transforms both attendees and participants.

We will continue to make magic with the Financial Planning Day concept. In San Francisco, for

example, we will again be returning to UC Hastings School of Law on Saturday, October 22nd, 2011. Our goal is to bring together 100 planners to serve 1,000 attendees.

The challenge we face is how we address our role as financial planners throughout the year. Do we hide behind titles such as wealth manager, wealth advisor, or investment manager, or do we proudly carry ourselves as financial planners? Do we promote our brand: financial planning? Or, do we wear it as a pair of mix-matched socks, which we only pull out when we are comfortable, but not when are fighting for business? Perhaps the more we celebrate financial planning, the more comfortable we and the public will become with what we do, that it becomes something we proudly display. As we raise the bar, the expectations of the consumer will shift, so that they will be the ones demanding a greater level of care and attention from us. We as a profession create strength when we take on the ownership of what we truly do, and the true value we provide—and charge for it!

We transcend all the tools of practice management when we put our attention on the bigger picture of fighting the cancer of financial illiteracy and the failure of people to fully integrate financial decisions into something fulfilling and rewarding. The mindset of the Financial Planning Day becomes a habit, where our purpose is to best serve those that come our way. Financial planning shines forth for all to see. The fear is not on how we are going to make ends meet, but how we will handle the abundance of what is to come. We now encourage the con-

sumer to shop around, as we have full faith that countless others will be able to provide the same level of expert advice and care that we can.

Please feel free to share your feelings and thoughts with me at ralph@privateocean.com. Life is an ocean, a rising tide raises all boats!

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**Recent Jury Verdicts -
Recommending an
Appropriate Personal
Umbrella Limit**

*by Randall Schneider, Assistant Vice President
Fort Point Insurance Services, Inc.*

In our current economic climate, our clients are searching for ways to save money and reduce expenses. While Excess Liability/Umbrella coverage may seem to our clients like a luxury, the following jury verdict statistics provided by an independent research company (Jury Verdict Research), demonstrate how Excess Liability/Umbrella policies are instrumental in protecting our clients net worth.

**\$49 Million: California
Automobile Accident**

Family of 21 year-old college student sued drivers of two vehicles involved in a multi vehicle crash. Plaintiff's counsel claimed one defendant was sleep-deprived while the other was on a cell phone. Plaintiff was in a coma for one month and is expected to require lifetime 24-hour care.

\$20 Million: Florida ATV Accident

Teenage male was killed while riding an ATV on a neighbor's property. The neighbor had invited him to drive the ATV, permitting him to operate it without proper safety equipment and without adult supervision. The teenage male struck a fence and was decapitated.

\$5.9 Million: Maryland Dog Bite

16-month old child attacked and killed by a pit bull kept at the home of a family friend.

**\$5.0 Million: Florida Cyclist
Accident:**

A 55-year old male cyclist was killed by a motor vehicle operator that drove through a stop sign.

**\$2.5 Million: Illinois Host
Liquor Liability/Negligent
Supervision**

Parents supervised activities in home after their teenage daughters invited friends over for a party. Two guests involved in a vehicular accident while driving home - vehicle's passenger paralyzed from chest down.

What is a Personal Umbrella Policy?

A personal umbrella liability policy is an insurance contract designed to increase the liability protection over and above a standard home and/or auto insurance policy. The personal umbrella extends liability protection beyond the primary policy limits - usually sold in million dollar increments. An umbrella may be obtained once the home and auto insurance policies meet a minimum "attachment point" (typically, a liability limit of \$250,000 or \$500,000). Personal Umbrella policies provide four elements of coverer age: Bodily Injury, Property Damage, Personal Injury and Defense Costs.

**Does Your Client Have Enough
Liability Coverage?**

While many financial advisors recommend that an umbrella policy limit be equivalent to net worth, they fail to provide a proper assessment of a client's risk factors, which are the true measure of an individual's exposure to loss. The following list of risk factors can be used as a measurement of probability. Affluent individuals and families having five or more factors may wish to consider an umbrella policy limit of at least \$5 million. Those with six or more factors may wish to consider a \$10 million umbrella limit or more.

Risk Factors:

- Earn a high income, anticipate a significant inheritance, have a net-worth over \$250,000

- Own an expensive automobile - accident victims tend to have complicated injuries and are less compassionate when hit by a luxury automobile

- Own a swimming pool, hot tub or spa
- An individual in the public eye - a CEO, senior executive, notable shareholder, government official, celebrity, or sports figure

- Own a rental property (wrongful eviction, unlawful entry, slander, malicious prosecution may be included in umbrella policies)

- Dog owners, especially those with a breed having a high occurrence of attack
- Transport others, particularly children or the elderly

- Have one or more teenagers in the household

- Frequently entertain others at your home (dinner parties, pool parties and cocktail parties)

- Own a motorboat, sailboat, personal watercraft or snowmobile

- Serve on a homeowners association board or a nonprofit board of directors
- Own a vacation home

- Own property on a steep hillside - damage caused by landslides to the property of others is covered under personal liability (however, damage to your property is excluded)

- Own firearms
- Employ domestic help and/or occasional workers

**Consider Increasing or Adding
Umbrella Coverage**

Umbrella coverage can help protect your client against personal liabilities that could attack a substantial portion of their assets or future earnings. For a few hundred dollars a year, your clients may add an umbrella policy or increase their current policy limits commensurate with their growing assets and "risk factors."

Source: www.JuryVerdictResearch.com

A Case Study for Internships

by Ingrid Robinson
Board Member At Large, FPASF

One of the requirements for CFP® certification is to complete three years of work experience. For many candidates, this is easier said than done. For most, there are only three options for fulfilling this requirement; 1) get your foot in the door of a large firm and work your way up to actually working with clients, 2) land a job in a small firm as a para-planner, or 3) start your own firm. All of these paths have their challenges.

There is actually another way. Internships! Internships can be a win-win for the intern, as well as the firm that hires them. Internships offer the candidate an entry point into the business of Financial Planning and provide them with invaluable experience. For the firm, it's a cost effective way to get additional help. This allows professionals to focus on meeting with their clients, while the intern has the opportunity to learn about marketing, operations and administration.

Many firms, large and small, are attracted to the idea of internships, but find they have time and resource constraints when it comes to actually hiring and managing an intern. Implemented correctly, hiring an intern can be extremely beneficial for the firm and the candidate. The FPA of San Francisco has created templates, forms and guidelines to help firms structure an internship. Although creating an internship takes time initially, you can create a position that works within your firm's

time and resource issues.

We wanted to highlight a small, local firm who took the time to create an internship that has been mutually beneficial. By really thinking about their firms, as well as the intern's, needs and structuring the internship based on their unique time and resource commitments, they were able to create a successful internship.

Hilltop Advisors, LLC is a three person, registered investment advisory firm located in San Francisco. They provide comprehensive financial planning, investment advising, estate and wealth replacement planning, business succession planning and executive and employee benefits. We interviewed Steve Branton, CFP and the firm's intern, Elizabeth Taylor.

When Steve passed the CFP Exam he was transitioning from another industry and did not have the three years experience required for certification. As a result, he is sensitive to others who find themselves in this same position. The firm was not in a position to hire someone new, but, as with most small firms, could use additional help. Steve, a former intern himself, recognized that Elizabeth was the perfect solution. At the time, she was a student at San Francisco State University working on her BS in Financial Services. She has since graduated and is currently enrolled in their Kaplan CFP Program. Elizabeth has been interning at Hilltop Advisors for over a year, working 20 hours a week.

Some firms decide not to offer internships because they feel that they cannot spare the time it takes to supervise an intern and develop tasks for them to do. Steve overcame this obstacle by giving Elizabeth projects, rather than individual tasks. By

assigning Elizabeth projects, the need for close supervision on a daily basis was alleviated. Elizabeth has been actively involved in determining the types of projects she was assigned. In their initial conversations, she expressed where her interests lie and what she wanted to learn while working at Hilltop Advisors.

Typical projects for her can last from a week to a month. These projects have included researching new funds and investments to recommend and create new portfolios, reviewing client estate documents and summarizing the pertinent information, creating new allocations for clients based on their risk assessment surveys, and analyzing fund reports and comparing them against benchmarks. By creating an environment for learning through project-based assignments, an intern can develop a sense of ownership and accountability. This eliminates the need for "hands on" daily supervision for the firm and does not add any additional stress on the firm. Steve and Elizabeth have found that they only need to check in occasionally during a project and they do so when it's convenient for Steve.

Both Steve and Elizabeth have benefited from this experience. Because he enjoys helping people, Steve has received personal enrichment. He stated, "Elizabeth has genuinely helped. Having a person with a financial aptitude can be a real resource." For Elizabeth, this internship has helped her to solidify her career goals. She is now more inclined to work for a smaller firm. She has had the opportunity to see every aspect of financial planning by working at Hilltop Advisors. "There's always something new and exciting to learn," Elizabeth said. The nature of her inquiries have often revealed fresh

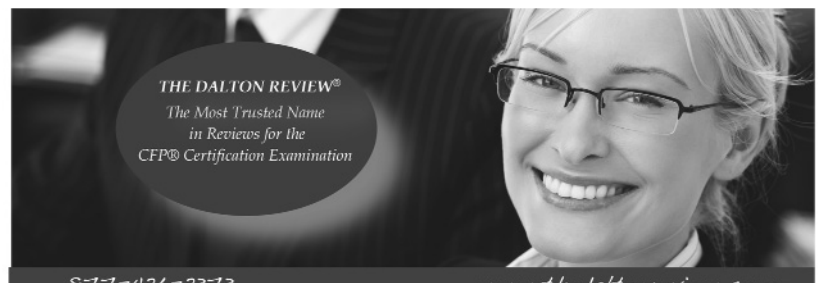
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A Case Study for Internships *Cont'd*

perspectives related to the projects.

Elizabeth's advice to interns is to focus on what they would like to learn and not be shy about asking for an opportunity to do those things. Assignments can be tailored to benefit both the firm and the intern. Steve and Elizabeth met at a social event, so she also advises that students attend networking events and be open to talking to people because "you never know who you will meet." Students can sometimes be so focused on their academics that they miss the opportunity to network. Elizabeth realizes that this has been a rare opportunity for her, because getting an internship has been very difficult for most students. Steve's advice to other firms is to create a framework that is the least amount of work on the firm, yet provides an environment for someone to learn. He also recommends re-evaluating your internship program periodically. Overall, Steve feels that giving someone the opportunity to grow is a gift and internships are an entry point into the business that provides a "soft landing" for students to begin their career. Giving students the opportunity to intern gives them a solid foundation which will, in turn, benefit our industry and help to develop better future planners.

For additional resources on how to develop a successful internship relationship, helpful forms, templates, job descriptions, etc. please visit our website at www.fpasf.org and click on 'Internships' under the Career Services sidebar tab.



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Tuesday, May 31 & Wednesday, June 1. The Palace Hotel in San Francisco

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FPA San Francisco Chapter Meeting

**Incorporating Philanthropy into the Family Wealth Plan:
Different Approaches from a Financial Planner and an Estate
Planning Attorney**

Bob Lew & Karen Meckstroth

Date:

April 19, 2011

Time:

11:30am - 1:30pm

Location:

City Club of San Francisco,
155 Sansome Street

CE credits:

1.5 hrs CE credit pending
approval from the CFP Board

Cost

Early Registration
\$45.00 FPA members,
\$65.00 non-members.

At the door

\$65.00 for FPA members,
\$85.00 non-members.

*Note: Early registration closes
on April 15th.*

Overview: Some wealthy families have strong charitable intent and would be receptive to charitable planning concepts. Most families have weak or no charitable inclination so incorporating philanthropy into their wealth plan is often very difficult. Moreover, attorneys are often uncomfortable talking about charitable giving unless the client brings it up first. Bob and Karen will share how, as a financial planner and estate planning attorney, they are able to successfully integrate charitable concepts within their clients' wealth plans. The audience will learn how to assist their clients to make meaningful choices about charitable giving and ultimately bring more meaning to the family's wealth.

Presenter's Bio: Robert Lew has spent thirty years as a financial planner, specializing in the fields of estate and charitable planning. He has spoken to professional organizations on these topics throughout the nation.

Karen Meckstroth, an attorney, who addresses both the tax planning aspects of estate planning and the nontax aspects such as the client's personal values and family dynamics. For the past few years, Karen has volunteered with the Silicon Valley Planned Giving Council's Incubator Project to assist nonprofit organizations to develop and implement their planned giving programs.

For more information:

www.FPASF.org

How to register:

Register online at *www.FPASF.org*

This meeting is sponsored by Fort Point Insurance

FPA San Francisco Chapter Meeting

CFP Board Code of Ethics Course

Gregg Clarke, CFP®

Date: April 19, 2011

Time: 1:45pm - 3:45pm

Location: City Club of San
Francisco, 155 Sansome Street

CE credits:

2.0hrs Ethics Credits

Cost

\$45.00

Overview:

In this instructor-led session, participants will examine CFP Board Code of Ethics. Participants will review how the Code has changed over time; review new terminology and definitions that have been introduced in the newest version; examine rules that have been removed; and review new rules that are now in play.

A variety of learning methods are incorporated into this program in order to stimulate learning and create an interactive classroom environment

Presenter's Bio:

Gregg Clarke, CFP®, founder of Meritas Wealth Management, LLC, has been a financial advisor since 1990. Prior to founding Meritas, Gregg worked as a financial planner for Willow Creek Financial Services. Gregg is a Certified Financial Planner (CFP®), and has an MBA in Financial Planning from Golden Gate University. Gregg's undergraduate degree is in Mechanical Engineering from the University of California at Davis.

This meeting is sponsored by FPA SF

*For information on future meetings please refer to the Chapter Meeting Calendar at the back of this issue.

How to Use Trivia Questions in Presentations

by David Borrelli MBA, CRPC®
 President's Column
 FPA East Bay

Many years ago when I started out in my career my former boss told me that in order to be a great presenter I needed to come up with my own unique style. He said that all great presenters figured out what style best suited themselves when delivering a speech in front of an audience. Some people are very funny and will tend to rely on jokes or a wry sense of humor to get the audience to laugh and enjoy the speech. Some people are very good at storytelling and can keep an audience captivated by a story for a 20 minute period. There are also those that like to keep it powerful with a high energy and high octane style that keeps everyone awake and alert. As I started to go through the growing pains of trying to become a good public presenter I tried most of these styles to see if they would work with my personality. Unfortunately I figured out pretty quickly that I would not have a long career as a wholesaler if I tried to copy jokes or tell long winded stories. Then one night I stumbled upon some trivia questions preparing for a meeting and tried them out the next time I spoke. The result was like magic in a bottle as my audience came to life and was engaged throughout the

presentation. The feedback was phenomenal and from that day forward I use trivia questions throughout my talks. Below is a list of my favorite topics and favorites types of trivia

Stock Market Trivia: You got to have some good nuggets here since this is why people want to hear you speak in the first place. However the key is to give the audience some choices because they tend not to know the fine details in Financial history. A couple of my favorites are 1) What is the best performing stock in the history of the SP 500 since 1957? Compliments of Jerry Siegel from Stock for the Long Run the answer was Phillip Morris (Altria). 2) What is the only stock to remain in the Dow since the 1920's ? The answer is GE 3) What has been the best performing decade in the US over the last 100 years measured by



David Borelli is the President of the East Bay FPA. David has served on the board for the past five years and he is a VP with Oppenheimer Funds.

the S&P 500? The Baby Boom decade of the 1950's.

Sports: Most audience's love a good sports question but keep it simple and don't get to ridiculous like who played 3rd base from the Oakland A's in 1979...(Wayne Gross! Lol) 1) Which athlete has been on the cover of Sports Illustrated the most (

Michael Jordon) 2) Which sports was measured by Sports Illustrated as the most popular sport in America... (NASCAR) 3) Which sports event was voted by people as the #1 sports moment of all time in the US?... (Miracle on Ice USA Olympic Hockey win over Russia in 1980)

Entertainment Trivia: Most people like entertainment trivia because most people have seen the movies and TV shows. You don't have to be an expert to get these right. My favorites are the following. 1) What is the only Movie Sequel to win the Academy Award for Best Picture? (GodFather2. 2) What is the longest running TV show in the history of Television... (60 Minutes) 3) What is the most popular comedy TV Show of all time (I Love Lucy)

General Trivia: The best thing about general trivia is that everybody has a chance to win. Again remember to keep it simple and don't make it too hard. 1) What is the most popular car color in America (White) 2) What is the most popular fast food in America (Subway) 3) What is the busiest bridge in America (The Bay Bridge!)

So remember the next time you have to get up and give a presentation to a group start with a trivia question as an ice breaker and weave a few into your presentation and you will be amazed at the attention it will garner. I will leave you with one of my favorite trivia questions.

Who is the only US President to never live in the White House? In order to get the answer you will have to come to the next meeting on April 6th to hear the answer!

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FPA East Bay Chapter Meeting

Ensuring Clients Have Life Their Way... Putting the Client's Fingerprint in the Long Term Care Planning

Linda Fodrini-Johnson, MA, MFT, CMC
Eldercare Services

Date:

Wednesday, April 6, 2011

Time:

7:15 am

Location:

Round Hill Country Club,
3169 Round Hill Rd.,
Alamo, CA

CE Credits:

1 Hour

Cost:

General Meeting:

\$30 FPA Members

\$40 Non Members -

Advance Registration

Overview:

What challenges will your clients face as they continue to live longer lives? Linda Fodrini-Johnson, MA, MFT, CMC, will discuss the challenges, such as health, family dynamics, financial and other possible "snafus" your clients may face as our population lives longer.

Linda will discuss how Professional Geriatric Care Managers can help mediate family conflicts and assist the entire family find peace while securing care and quality of life. She will offer simple solutions, resources and anecdotes to equip you with the tools to enable your clients to "live life their way" as they age.

Presenter's Bio:

Linda is a licensed Family Therapist and Certified Care Manager. She has been a Geriatric Care Manager since 1984 and started her private practice in Walnut Creek, California in 1989. Eldercare Services is now a full-service geriatric care company, employing over 20 Professional Geriatric Care Managers and a total of about 250 employees, with offices in Walnut Creek, San Francisco and Oakland.

Linda teaches a variety of classes to family caregivers and professionals and is passionate about promoting the value of Professional Geriatric Care Management.

How to register:

You register for both the General Meeting and Ethics Course with check or credit card online at: www.123signup.com/register?id=vzffz

For more information:

For more information go to www.FPAEastBay.org or contact Krysta Patterson 925.935.9691

This meeting is sponsored by our 2011 Gold Sponsor: Roshan Weeramantry, Strategic Capital Partners

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Chapter Meeting Calendar

2011	East Bay FPAEastBay.org	San Francisco FPASF.org	Silicon Valley FPASV.org	Monterey Bay FPAMontereyBay.org
APRIL	<p>Wednesday, April 6th, 7:15am Round Hill CC <i>Ensuring Clients Have Life Their Way... Putting the Client's Fingerprint in the Long Term Care Planning</i> Linda Fodrini-Johnson</p>	<p>Tuesday, April 19th, 11:30am -1:30pm City Club <i>Incorporating Philanthropy into the Family Wealth Plan</i> Bob Lew Karen Meckstroth</p>	<p>Friday, April 8th, 11:30 am - 1:30 pm TechMart <i>Credit Ratings, Bankruptcy and Credit Repair</i> Panelists: David Rao, Natalie Knowlton, Hanna Fliegel</p>	
MAY	<p>Wednesday, May 4th, 7:15am Round Hill CC <i>Estate Planning: New Estate Tax Laws</i> Chris Hennessy</p>	<p>Tuesday, May 10th, 11:30am -1:30pm City Club <i>Cash Flow, Fiduciary Care and the Virtues of Relationship</i> Martin Kurtz</p>	<p>Friday, May 13th, 11:30 am - 1:30 pm TechMart <i>Sustainable and Green Investing</i> David Kurzman</p>	
JUNE				<p>Thursday, June 23rd, 11:30 am - 1:30 pm Location TBA <i>Working With Clients in This Economy</i> Brown Bag Group Discussion</p>

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