CALDWELL LAW

ESTATE PLANNING & SETTLEMENT

Taking good care of tomorrow...

Newsletter: January 2024

Standing row: *Tim Caldwell, Sonja Bailey, Kristine Newbold, Renee Harvey, Constance Kincaid-Brown, Pam Brackett and James Thaxton*
Sitting row: *Jaclyn Hatt and Kelly Anne Bagni*
Not pictured: Sharon Matte, Sheila Smith, and Mariel Villarta Anzures

Meet the Team!

We have new faces in the office.

Constance Kincaid-Brown – Connie joined the Caldwell team in August of 2023 as our new Titling Coordinator. She has a background in accounting and now helps our clients fulfill their estate planning goals through titling and asset alignment.

Kelly Anne Bagni – Kelly joined the Caldwell team in September of 2023 as an administrative assistant/paralegal. She has experience in real estate and estate planning and enjoys supporting our team and helping our clients.

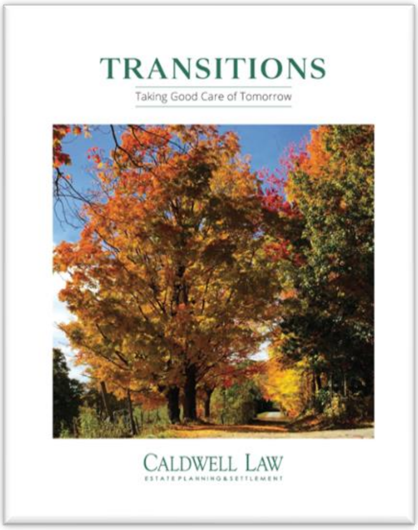
Sharon Matte – Sharon joined the Caldwell team in October of 2023 as our new Settlement Coordinator. She has over 20 years of experience in the probate court.

She's retired! We said goodbye to *Pam Brackett* who retired in December 2023. Pam was with the Caldwell team for five years as the Settlement Coordinator. She is a good friend and colleague to our team and clients. *We will miss you, Pam!*

Special Events & Workshops

We will continue to host our special events and workshops via Zoom and hope you can join us. We would love to meet in person and may try to do more events in person or hybrid as the year goes on. Details for joining can be found on our website or call 603-643-7577 for more information.

- January 24 – Exploring Charitable Giving
- February 21 – Navigating Life's Final Journey
- March 13 – Senior Fraud Prevention
- April 17 – Senior Wellness
- **April 26 – Classicopia**
- May 15 – Write Your Own Obituary
- **May 22 – Annual Client Meeting**



Caldwell Law Publication,
View a digital copy today!

2024 Annual Estate Planning Checkup
(for peace of mind and navigating transitions)

Key Figures

1. **Estate Tax** – the federal estate tax basic exclusion amount for 2024 is $13.61M. This means estates valued at or below this amount will *not* owe any federal estate tax. The 2023 exclusion amount was $12.92M. Barring congressional action, the inflation-adjusted exclusion amount is expected to be *reduced* to $5M in 2026, inflation, so likely around $7M.
2. **Annual Exclusion** – the federal annual exclusion amount for gifts in 2024 is $18,000 per year per recipient. This means individuals may gift up to this amount to each recipient annually without incurring any gift tax liability or having to file a gift tax return The 2023 exclusion amount was $17,000.

Key Strategies

1. **Maximize Gifting** – utilize the increased annual exclusion to make tax-free gifts to family members and loved ones. This can help reduce the size of your taxable estate and potentially eliminate or minimize estate tax liability in some instances.
2. **Review Estate Planning** – evaluate your health care directives, financial power of attorney, will and trust to ensure they are up to date and reflect your current wishes, goals and circumstances. Estate planning involves more than just these documents and tax considerations. It also involves important decisions regarding asset distribution and end-of-life care.

Remember: if making annual gifts to individuals or charities is important to you, make them early in the year!

KEY QUESTIONS

Can you *STILL* answer "Yes" to our 4 questions?

1. **Do I understand my plan?**
   - What does my plan do for me (and my beneficiaries) when I am well, if I am unwell/incapacitated, and after my death?
   - How will my plan be administered if I am incapacitated or after my death?
   - Do my helpers and beneficiaries understand what will happen during each of these timeframes?
2. **Will my plan work for me and my beneficiaries?**
   - If I lose capacity, are my instructions for my care up to date and communicated to my helpers?
   - If I lose capacity, are my instructions for use of my assets up to date and communicated to my helpers?
   - Have my beneficiaries' circumstances changed and are the gifts I plan to make to them structured in a manner that will be best for them?
3. **Do my helpers know what to do?**
   - What document(s) memorialize my health care wishes and have I had conversations about this with my helpers?
   - Do my helpers know where my important documents and information is kept?
   - Do my advisors (medical, financial, tax, legal) know who my helpers are?
4. **Are my assets titled properly?**
   - Is my asset list up to date and easily located by my helpers?
   - Do I have verifications showing my assets are properly aligned with my plan?
   - Are the beneficiaries (contingent and tertiary) on my accounts up to date?

Taxes and (Possibly) Adjusting Plans

Today, while estate tax planning remains a goal for some, planning for income taxes is more common. Specifically, income taxes associated with retirement plans and capital gain liability associated with assets held in irrevocable trusts. Whether it is planning for long-term care, preparing a Medicaid application or protecting assets through the use of trusts, often it is the income tax, not the estate tax, that is more relevant.

The Tax Cuts & Jobs Act of January 1, 2018, ("the Act") doubled the estate, gift and generation-skipping transfer (GST) tax exemptions from $5M to $10M. Based on inflation since then, the exemptions are now slightly more than $13.6M per person. The exemptions will increase again in 2025. They revert to $5M indexed for inflation, December 31, 2025 so likely around $7M. The Annual Gift Tax Exclusion was not part of the Act, but it is also indexed for inflation and is now $18,000.

Here are a few scenarios to review:

1. <u>You are married</u>. Many years ago, you created an estate plan to minimize the estate tax and avoid probate. You are confident that even if the survivor of you and your spouse owns all the family's assets their estate will not be subject to the federal estate tax. You are not concerned about asset protection or multigenerational planning. You may want to revise your plan so the survivor of you (1) owns all the assets; (2) will not have to deal with an irrevocable trust during their lifetime; and (3) the assets will receive a "step up" in basis at their death.
   And, if the sum of the family assets might be subject to the estate tax at the death of the survivor of you, an estate tax return may be filed at the first death to elect "portability." Portability permits the transfer of the deceased spouse's unused estate tax exemption to the surviving spouse. Note: portability does not apply to the GST exemption.
2. <u>You are the beneficiary of an irrevocable trust holding appreciated assets</u>. Including those assets in your estate is unlikely to cause an estate tax at your death. You may want to have a 3rd party amend the trust, or decant the trust to a new irrevocable trust to reduce capital gain exposure for your beneficiaries following your death.
3. <u>You have high medical costs and a retirement account</u>. Consider taking larger than required minimum distributions from the account and offset some of the additional income with medical deductions.
4. <u>You are 70.5+ years of age</u>. You have a retirement account. You want to make charitable gifts during and after your death. Consider using funds from the retirement account to satisfy those gifts. It's almost always more income tax efficient than using nonqualified assets to satisfy charitable gifts.
5. <u>You have a taxable estate</u>. Consider gifting your entire exemption prior to December 31, 2025, to lock in the exemptions granted by the Act. For married couples, using one spouse's exemption by gifting assets to an irrevocable trust benefiting the other spouse can permit the full use of one spouse's exemptions while keeping the assets in the family.
6. Keep in mind, state estate taxes play a role in many people's planning, either because they live in a state with an estate tax, they own real estate in such a state, or one or more of their beneficiaries lives there. The state estate taxes our clients are most frequently dealing with are Vermont ($5M) Maine ($6.94M) Massachusetts ($2M) and New York ($6.94M).

[Contact us if you want to discuss any of these or other planning options].

Funding Shortfall for At-Home Care

The New Hampshire Department of Health and Human Services is currently facing a class-action lawsuit over its Choices for Independence (CFI) Program, which provides at-home care for residents who qualify for Long-Term Care Medicaid. The lawsuit, filed in January 2021 by New Hampshire Legal Assistance, the Disability Rights Center – NH, and the AARP Foundation, highlights a critical funding shortfall that jeopardizes the well-being of older and disabled residents.

The CFI Program has been a vital lifeline for those in need, offering support allowing individuals to age in place and receive the necessary assistance to maintain their independence. However, the agencies responsible for delivering these crucial services have expressed an inability to continue their work without significant rate increases. This predicament poses a direct threat to the well-being of vulnerable residents who may have to go to a nursing home due to the unavailability of at-home care.

Now certified as a class action lawsuit, the case is set to go to trial in March 2024 and seeks to hold the Department of Health and Human Services accountable for the denial of services and resolve the funding crisis. Ultimately, the outcome of this litigation could have far-reaching implications for the state's approach to supporting its aging and disabled population.

Help your helpers help you!

Can you answer "yes" to our third question - *do my helpers know what to do?*
Visit our "Helper's Portal" on our website for facts and tips on how to engage and educate your helper's so when the time comes, they are prepared to support you.

Consolidating Your Assets

An often overlooked, yet critical step in estate planning, is ensuring all your assets are titled in a manner consistent with your plan. We call this Asset Titling.

If you can, we recommend consolidating your assets as a first step in the titling process. Doing so will simplify your life and the work you are asking others to do. It also simplifies tracking your assets, obtaining confirmations from 3rd parties that your assets are titled property and saves time in preparing tax returns. And, it will make it less difficult for your helpers, your agent, executor and Trustee when you are no longer able to manage your affairs.

Titling Tuesdays!

Join Tim on the third Tuesday of every month as he answers your questions and discusses how to *get title right*!

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