



FINANCIAL *Planning Strategies*

A Financial Planning Update

WestPoint *Private Client*
G R O U P



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Survivorship Life—A Win-Win Proposal

One of the more flexible and creative products to enter the insurance arena is **survivorship life insurance**. Often referred to as *last-to-die* or *second-to-die* life insurance, this coverage insures *two* individuals but provides only one death benefit payable at the death of the second insured. In some instances, especially when the insured individuals are nearing retirement, it may be less expensive than a single life insurance policy on one individual.

Cost savings are made possible because the insurance risk is spread over the life expectancy of *two* lives rather than one. In fact, two individuals can be insured even if one is medically "uninsurable," thus providing added security and planning potential for otherwise difficult situations.

Techniques for Asset Protection

Many people focus their efforts on increasing their financial resources, yet they may give relatively little attention to *protecting* those assets once they are accumulated. However, without the proper legal protection, the financial security you have worked long and hard to build could easily be threatened by an unexpected lawsuit.

In today's litigious society, it is important to be prepared. Basic assets,

Benefits for Estate Planning

The advent of survivorship life insurance has created several exciting personal planning opportunities, the most popular of which is the funding of estate taxes. Even with the appropriate wills, trusts, and property ownership designations, married individuals who properly balance their estates are still subject to estate tax on assets exceeding the **applicable exclusion amount** of \$2,000,000 per person in 2007. In this type of situation, a survivorship life insurance policy can be an integral part of an estate plan.

Let's take the hypothetical example of Jane and Rick Sanderson. Jane and Rick are both sixty years of

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such as home equity, savings, or retirement accounts, could be at risk. Business owners and professionals, such as doctors, dentists, lawyers, and accountants may be especially vulnerable to claims from customers/patients/clients, suppliers, employees, and lenders.

Lawsuits can be expensive and time-consuming to defend. Even if you think you are in the right, you may be forced to settle, because it may be more costly

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age and have three adult children. The Sandersons have updated and signed the appropriate legal documents (**wills, trusts, etc.**) and repositioned their asset ownership to maximize their individual applicable exclusion amounts. Thus, the potential exists for only \$4,000,000 in 2007 to pass to their heirs free of estate taxes. However, the remainder of their assets may incur as much as a 45% federal estate tax.



One solution to this problem would be to create an **irrevocable trust** to purchase a survivorship life insurance policy on their lives. The trust will own and be the beneficiary of the policy and, thus, will allow the policy proceeds to pass to the trust beneficiaries (the Sandersons' children) estate tax free. The Sandersons *gift* the policy premiums to the trust using their **annual gift tax** exclusions of \$12,000 (indexed for inflation) per person per donee for 2007. In order to qualify for the annual exclusion, the trust contains **Crummey withdrawal powers**.

Enhance Charitable Gifting

Even if an individual does not foresee any estate tax problems, survivorship life insurance can be a dynamic method used to enhance any gifting program. Suppose the Sandersons' net assets total \$600,000, and they have little concern about estate taxes. However, they make an annual gift of \$5,000 to a favorite local charity. Rather than gifting \$5,000 in cash to the charity every year, the Sandersons may choose to leverage their gift and pay the premium on a survivorship life insurance policy. This insurance gifting program is arranged so the charity is the owner and beneficiary of the new survivorship life policy. The Sandersons will then receive an annual charitable deduction for their generous gift, and the charity will ultimately receive a life insurance death benefit.

Maintaining Business Continuity

In a more advanced use, survivorship life insur-

ance can be effective in helping to ensure continuity in a **closely held** business. For instance, passing a family-owned business of substantial value to heirs may be hampered by potentially hefty estate taxes that, in some instances, may require a forced sale of the business in order to raise the necessary cash to pay the taxes. A survivorship life insurance policy can be purchased on the lives of the owner and his or her spouse, with the death benefit providing cash to help meet estate tax obligations and keep the business in the family.

The many uses of survivorship coverage can result in a "win-win" situation for the insured individuals and their family. Whether you have an estate tax problem or wish to leverage the value of a gift to your favorite charity, a survivorship policy can help provide a relatively high benefit for a minimal cost. A consultation with your qualified insurance professional can best determine how a survivorship life insurance policy can fit into *your* overall financial program. ☞

Simple Steps to Financial Success

Sometimes, even well-compensated executives, professionals, and business owners find it difficult to attain long-term personal financial success. Although they may be achieving a level of financial security others might envy, their

primary focus may be on developing their businesses or careers—to the exclusion of taking care of their personal finances. If you are among these high earners, here are six simple steps you can take to help put your finances on solid

ground: 1) pay yourself first; 2) reduce your consumer debt; 3) diversify your savings; 4) make the most of your tax-deferred saving opportunities; 5) bring your estate plan up-to-date; and 6) set long-term financial goals. ☞

Techniques for Asset Protection

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to fight a lawsuit than to pay a settlement. Also, regardless of whether you win or lose, you generally must pay for the costs of your own defense. However, with proper advance planning, there are some relatively simple and inexpensive ways to help protect your assets from the threat of litigation.

In many states, life insurance death benefits and cash values are exempt (in whole or in part) from the claims of creditors of the insured. However, the exemption for life insurance cash values may depend on the ability to prove there is no attempt to defraud a creditor.

You may also want to consider maximizing your contribution to your qualified retirement plan. In order to be tax qualified in the eyes of the Internal Revenue Service (IRS), qualified plan assets may not be assignable. The United States Supreme Court has interpreted this to mean that account balances in a qualified plan

are generally protected in bankruptcy situations. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) strengthened this legal principle by explicitly extending bankruptcy protection to retirement savings held in Individual Retirement Accounts (IRAs). Non-rollover assets of up to \$1 million held in tax-favored retirement accounts, including IRAs, are protected under BAPCPA in the event of personal bankruptcy. There is no limit on amounts rolled over to IRAs from qualified plans, including 401(k)s. Funds held in SEP IRAs and SIMPLE IRAs also gained unlimited protection from creditors under the legislation and are not counted toward the \$1 million IRA limit.

Life insurance policies and qualified plans aren't the only ways to protect assets. Most states provide some kind of asset protection for a primary residence. The key may lie in *how* the residence is titled. One

form of titling, called "tenants by the entirety," is often necessary to insulate home equity against the claims of creditors.

In some cases, a "spendthrift" clause in a trust will prevent creditors from attacking trust fund assets. However, this protection almost never applies in the case of so-called "self-settled" trusts. In other words, you cannot typically set up a trust for your own advantage, unless you cede all control and benefits. It may, however, be possible to establish such a trust to benefit selected family members.

When planning your estate, it is important to give thought not only to building wealth, but also to *protecting* your assets from the threat of lawsuits and the potential claims of creditors. Qualified financial, legal, and tax professionals can help you implement some relatively simple and inexpensive strategies to help protect your assets. \$

Take the Long View for a Successful Retirement

You have worked a lifetime to reach the point when you can retire. However, retirement planning does not end when retirement begins. What you do next, and how you navigate the array of tax issues and regulatory pitfalls, can make a big difference in the long-term success of your

retirement plan. Here's a brief review of some of the more "taxing" issues you may encounter:

Early retirement and early withdrawals. For many, early retirement represents a lifelong dream. However, there is one issue you should keep in mind. If you take withdrawals from your quali-

fied plan assets before age 59½, you may be subject to a 10% federal income tax penalty. To avoid this penalty, you can elect to take your annual withdrawals in a series of substantially equal periodic payments. The payments must continue for at least five years or until you reach age 59½, whichever comes later.

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Take the Long View for a Successful Retirement

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There are a few circumstances in which early withdrawals may be taken without penalty (e.g., death and disability). At 10%, the penalty tax can be significant, and prevention should be planned whenever possible.



Waiting too long. You must begin taking mandatory minimum withdrawals from your traditional **Individual Retirement Account (IRA)** by April 1st of the year after you reach age 70½. (Distributions from an employer-sponsored qualified plan can be postponed until retirement if you continue working past age 70½, provided you are not an owner-employee.)

If you ignore the mandatory minimum withdrawal or do not take out enough from your IRA, you will be subject to a 50% penalty tax. The tax will be incurred on the difference between what you *should* have taken out of your IRA and the *actual* amount you

withdrew from your IRA. Your minimum withdrawal amount will be based on the previous December 31st balance, divided by your life expectancy (or the joint expectancy of you and your spouse, if applicable).

Working while receiving Social Security. If you receive Social Security and also continue to work, a portion of your benefits may be taxable. For more information, you can refer to Internal Revenue Service (IRS) Publication 915, *Social Security and Equivalent Railroad Retirement Benefits*, or consult with your tax professional.

You may also be subject to the so-called Social Security "give-back." Recent tax law changes eliminated the "give-back" for working Social Security income recipients who have attained **full retirement age** (age 65 to 67, depending on the year you were born).

Previously, the law required Social Security income recipients between the ages of 65 and 69 to return \$1 for every \$3 earned in excess of a predetermined earnings limit. Now, the law requires a give-back of \$1 for every \$2 earned above \$12,960 (in 2007) for individuals who are between the ages

of 62 and 64 and are receiving a reduced Social Security benefit. For the year in which an individual attains full retirement age, the give-back is \$1 for every \$3 earned in excess of \$34,440 for 2007. The month in which the individual attains full retirement age, the give-back is eliminated. Therefore, it is important for anyone who is thinking about taking Social Security benefits while still working to understand the potential tax consequences and to plan accordingly.

Where you live can make a difference. Some important tax issues must be addressed when you select your retirement haven. Each state has its own rules on income, estate, sales, and property taxation. Your accountant can help you become familiar with the tax advantages and disadvantages of your retirement destination.

Your personal retirement plan most likely involved building a nest egg with regular savings over the years. However, once you reach retirement, your planning should continue. You will always benefit from maintaining a savings plan consistent with your changing goals and objectives. \$

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