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Estate Planning: Take this Important Step NOW

With the federal estate tax exemption at a generous $5 million for 2011 ($5.12 million for 2012), the topic of estate planning may have fallen completely off your radar. After all, you may think there's no way your estate would lose money if you happen to die between now and 2013, so there's no need to do anything.

Wrong! There is an important estate planning action you should take *right now*. Check the beneficiary designations for your bank accounts, brokerage firm accounts, tax-favored retirement accounts, company benefit plans, life insurance policies, annuities, and 529 college accounts.

If you have not yet turned in the forms to officially designate beneficiaries because you just haven't gotten around to it, please turn them in. If your forms are out of date, turn in new ones.

Many people fail to take these simple steps, and the consequences can be dire. For example, let's say you die and your ex-spouse, who you intended to get nothing further after your divorce, was allowed to collect your company pension benefits and the proceeds from your company-provided life insurance. You intended for your children from an earlier marriage to get the money but you never got around to changing the beneficiary designations made years ago. Without the updated beneficiaries being listed, the money would go to your ex-spouse.

There are many personal situations that occur in life that may necessitate changing a beneficiary. So, you need to take a few minutes and revisit your beneficiary designations to verify that they are accurate and timely. Here is an action plan.

Institution	Fill Out and Submit
For bank and brokerage firm accounts:	A transfer on death (TOD) or payable on death (POD) form to name or change your beneficiary or bene-
For tax-favored retirement accounts, employer-sponsored benefit plans, life	Beneficiary designation forms to name or change beneficiaries.
For 529 college accounts:	A beneficiary change form to change the account beneficiary.

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Beyond making sure your money goes where you want, another advantage of designating individual beneficiaries is that it avoids probate. The benefits go directly to the named beneficiaries.

In contrast, if you name your estate as your beneficiary and depend on your will to direct the money to your loved ones, the estate must go through the potentially time-consuming and expensive process of court-supervised probate before the money is allowed to arrive at the intended destinations.

For Married Couples

If you are married and have accounts set up with you and your spouse as joint owners with right of survivorship, the surviving spouse will automatically take over sole ownership when the first spouse dies. If that is what you intend, you may not have to do anything. Still, you may want to name some secondary beneficiaries to cover the possibility that your spouse dies before you do.

Note that in the nine community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin), you will usually need your spouse's consent to make beneficiary changes because assets accumulated during your marriage are generally considered to be owned 50/50.

Your Will Has No Impact

Do not depend on your will to override outdated beneficiary designations. As a general rule, whoever is named on the most-recent beneficiary form (which may not be recent) will get the money automatically if you die -- regardless of what your will might say.

Do You Have Money in IRAs?

If you have a hefty balance in one or more IRAs, consider dividing up the existing account(s) into separate IRAs for each of your intended beneficiaries. That way, they can act independently when they inherit the money, and they can each calculate required minimum distributions from the inherited balance based on their individual life expectancies.

You can split up an IRA by making tax-free rollovers into new accounts set up for each beneficiary. IRAs with multiple beneficiaries are more problematic, because all of your beneficiaries are unlikely to have the same objectives for the inherited money.

Note: An IRA can be split up tax-free after your death, but that requires somebody to do some tax-smart thinking, and you may not be able to count on that after you're gone.

Conclusion: Keep your beneficiary designations up-to-date. The key words are *up-to-date.* It is a good idea to check your designations at least once a year or whenever significant life events occur. It usually only takes a few minutes to conduct a checkup and make any needed changes, and you can often get the forms online. But if you wait, it could be too late.

Two Supreme Court Horror Stories

1. Beneficiary Designation more Important than State Law after Untimely Death. David Egelhoff, a Washington state resident, failed to change the beneficiary designations for his pension benefits and life insurance after his divorce, so his ex-wife remained the named beneficiary.

Two months after the divorce, Egelhoff was killed in an auto accident. He had no will. The life insurance proceeds of $46,000 were paid to the ex-wife. Egelhoff's children from a previous marriage, who were his statutory heirs under state law, sued to recover the life insurance money. In a separate action, they sued to recover the pension plan benefits.

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Their argument: Washington state law would have automatically disinherited the ex-spouse. In Washington, interest in non-probate assets such as life insurance policies and employee benefit plans, is revoked if a marriage is dissolved or invalidated.

At issue was whether state law pre-empted the federal *Employee Retirement Income Security Act* (ERISA), which governs benefit plans. The problem: ERISA states that it supersedes "any and all state laws."

The U.S. Supreme Court ruled that Egelhoff's pension and life insurance beneficiary designations trumped Washington state law. The state law "directly conflicts with ERISA's requirements that plans be administered, and benefits be paid, in accordance with plan documents."

So the ex-wife got the money, and the children only got the bills for a lengthy, unsuccessful legal fight that went all the way to the Supreme Court. (*Egelhoff v. Egelhoff*, 532 US 141, Supreme Court, 2001)

2. Beneficiary Designation Rules even when Divorce Agreement States Otherwise. William Kennedy was a participant in his company's savings and investment plan. He named his wife the designated beneficiary of the plan, and named no contingent beneficiary. The couple divorced 20 years later.

After Kennedy died, his ex-wife collected $400,000 from his company savings and investment plan even though she had specifically waived any interest in the plan under the divorce agreement. Kennedy's estate, with his daughter as the executrix, sued the company and the plan administrator claiming that his divorce decree amounted to a waiver of the benefits on the ex-wife's part. This case also went all the way to the Supreme Court.

The estate argued that Kennedy believed the divorce agreement was the last word on the subject, so he failed to turn in a form to officially change the plan beneficiary from his ex-wife to his daughter. The company plan document stipulated that beneficiaries could only be changed by submitting the required form.

The U.S. Supreme Court ruled that the outdated beneficiary designation trumped the divorce agreement. "The plan provided an easy way for William to change the designation, but for whatever reason he did not," the High Court noted, so the plan administrator properly distributed the benefits.

The end result was the ex-wife kept the money and the daughter got nothing. (*Kennedy Estate v. Plan Administrator for the DuPont Saving and Investment Plan*, Supreme Court, 2008)

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Seniors: Don't Overlook Write-Offs for Medicare Premiums

Many seniors have gotten into the habit of just claiming the standard deduction instead of itemizing. That's because seniors typically pay little or no mortgage interest, and they usually don't owe much for state and local income and property taxes either. So the most common itemized deductions often amount to little or nothing.

Plus, taxpayers age 65 and older get larger standard deductions. All that said, claiming the standard deduction may not be the right answer if an older taxpayer has significant medical expenses.

As you may know, medical expenses can only be deducted to the extent they exceed 7.5 percent of adjusted gross income (AGI). In adding up expenses, don't make the common mistake of forgetting to count Medicare insurance premiums. Together with other out-of-pocket costs, Medicare premiums can easily put you over the 7.5 percent-of-AGI threshold and also cause an older taxpayer's total itemized deductions to exceed the standard deduction amount.

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Here's how to find out if a tax bill can be reduced by itemizing.

Identify Outlays that Count as Medical Expenses

To figure out if you have enough medical expenses to benefit from itemizing, add up the following.

1. **Premiums for Medicare Parts B, C, and D Coverage.** Seniors enrolled in Medicare can count premiums for Medicare Part B coverage (for medical costs other than hospital bills), Part C coverage (for Medicare Advantage policies), and Part D coverage (for prescription drugs) as medical expenses:

- For most people, the 2012 Part B premium is $99.90 per month ($1,199 for the year), but it can be up to $319.70 per month for a high-income individual ($3,836 for the year). For 2011, the Part B premium was $96.40 per month per covered person ($1,157 for the year), but for higher-income folks, it was up to $369.10 per month ($4,429 for the year).
- Part C premiums depend on the plan, but they can be several thousand per year for each covered person.
- Part D premiums are often in the $30 to $60 per month range per covered person for 2012 (and 2011).

These Medicare coverage premiums are generally withheld from Social Security benefit payments. If so, you can find the premium amounts for each year on Form SSA-1099 (Social Security Benefit Statement), which beneficiaries should receive shortly after the end of each year.

2. Premiums for Supplemental Medicare Coverage (Medigap Insurance). Seniors can also count premiums paid for private Medicare supplemental insurance policies (often called Medigap coverage) as medical expenses. The cost depends on the plan, but annual premiums can easily amount to $1,000 to $2,000 per covered person or more.

3. Premiums for Qualified Long-Term Care Coverage. Premiums for qualified long-term care insurance also count as medical expenses, subject to age-based limits. For each covered person, count the lesser of the actual premiums paid for the year or the age-based limit from below.

Age on 12/31/12	Maximum Deductible Amount	Age on 12/31/11	Maximum Deductible Amount
61 to 70	$3,500	61 to 70	$3,390
Over 70	$4,370	Over 70	$4,240

4. Out-of-Pocket Medical Expenses. Many seniors also incur significant out-of-pocket outlays due to insurance copayments and deductibles and for dental and vision care. Be sure to add these into the mix.

5. Medical Expenses Paid for Relatives. Did you pay health premiums or uninsured medical expenses for a qualifying relative this year? If you did, count these outlays too. For a person to be your qualifying relative, you generally must pay over half of his or her support for the year, and the person must be your adult child, son-in-law, daughter-in-law, grandchild, father, stepfather, father-in-law, mother, stepmother, mother-in-law, brother, stepbrother, brother-in-law, sister, stepsister, sister-in-law, aunt, uncle, niece, or nephew. It doesn't matter if the relative lives with you or not.

Add Qualifying Medical Expenses Up and Subtract 7.5 Percent of AGI

As mentioned earlier, you can only claim an itemized medical expense deduction to the extent your total expenses exceed 7.5 percent of adjusted gross income (AGI). For example, say your AGI is $80,000, and you have $20,000 of medical expenses from the preceding list. Your itemized medical expense deduction is $14,000 [$20,000 minus $6,000 (7.5 percent of your $80,000 AGI)].

Do the Final Calculations

As you can see, you can claim a significant itemized deduction for medical expenses (even after subtracting 7.5 percent of AGI), the next step is to identify any other potential itemized deductions for the year. These can include (among other things):

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- State and local income and property taxes (including taxes on cars, boats, and other personal property);
- For 2011, state and local general sales taxes were allowed (but only if you choose to claim them instead of claiming state and local income taxes). Congress will have to take action for the state and local sales tax option to be available for 2012;
- Home mortgage interest (if any); and
- Charitable contributions.

Add these to your medical expense deduction, and see if the total exceeds your standard deduction amount of:

- For 2012, $7,400 if you are unmarried and 65 years or older as of December 31, 2012. (For 2011, the amount was $7,250 if you were unmarried and 65 or older on December 31, 2011.)
- For 2012, $14,200 if you file jointly and both you and your spouse are 65 or older as of December 31, 2012. The 2012 amount is $13,050 if only one spouse is 65 or older. (For 2011, the amounts were $13,900 and $12,750, respectively, based on your ages as of December 21, 2011.)
- For 2012, $10,150 if you use head-of-household filing status and were 65 or older as of December 31, 2012. For 2011, the amount was $9,950 if you will be 65 or older as of December 31, 2011.

Obviously, if your total itemized deductions exceed the applicable standard deduction amount, you should forego the standard deduction and instead claim itemized deductions, on Schedule A of Form 1040, when you file your return.

Note: If a senior taxpayer is self-employed and qualifies for the self-employed health insurance deduction (available for itemizers and non-itemizers), you may be able to add Medicare health insurance premiums to your self-employed health insurance deduction. Contact your tax adviser if this issue affects you.

Conclusion: If you do the calculations explained in this article, you may discover that itemizing is the way to go. If you failed to itemize for earlier years, you can usually recoup the tax savings for up to three earlier years by filing amended returns. However, it's much easier to simply get it right the first time. Contact your adviser if you are interested in filing amended returns or want additional information. HK

What Parents (and Grandparents) Need to Know About Custodial Accounts

Custodial accounts for children are established for various reasons. Grandma gave $10,000 to little Jennifer: set up a custodial account. Mom and Dad want a tax shelter for little Johnny's college savings fund: set up a custodial account. However, many folks who establish custodial accounts fail to recognize that they have significant legal and tax implications.

Here are five important facts parents (and grandparents) need to understand.

1. The Money Now Belongs to the Child. Once funds are transferred into a minor child's custodial account at a financial institution or brokerage firm, the funds then irrevocably belong to the child. While the parent can, and usually does, function as the custodian (manager) of the account, the money can legally be used only for expenditures that benefit that child. In other words, parents are legally forbidden from using custodial account money for expenditures that benefit themselves (like a new car). And they cannot take money from one child's custodial account and use it to open up or supplement an account for another child.

Obviously, it can sometimes be a fine line between expenditures that benefit the child and those that benefit other family members, and you rarely hear about parents getting into legal hot water for dipping into custodial accounts. That said, you don't want to stray over the line.

2. The Kid Will Gain Control at a Relatively Young Age. A minor child's custodial account must be established under the applicable state *Uniform Gifts to Minors Act* (UGMA) or *Uniform Transfers to Minors Act* (UTMA). Most states

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What Parents (and Grandparents) Need to Know ...(continued from page 5)

have UTMA regimes these days. In any case, under applicable state law, the child will gain full legal control over the account once he or she ceases to be a minor. This will happen somewhere between age 18 and 21 (in most states the magic age is 21).

Remember: Nice little kids eventually may turn into obnoxious teenagers and young adults who are irresponsible. So parents should consider the possibility of future "UGMA or UTMA regret" before taking the irrevocable step of putting a substantial sum into a child's custodial account.

3. The Child May Have to File Tax Returns and Pay Taxes. Any income from a child's custodial account belongs to the child. If that income exceeds $950 for 2012 (unchanged from 2011), a separate federal income tax return generally must be filed for the child using Form 1040, 1040A, or 1040EZ. The child will probably owe some tax, and the Kiddie Tax rules may make it higher (see below). A state income tax return may be required too.

Exception: If all of the child's income consists of interest, dividends, and mutual fund capital gain distributions, the parent may be eligible to simply include the income on the parent's Form 1040 and pay the resulting extra tax with that return. Details about this option are explained on IRS Form 8814 (*Parents' Election to Report Child's Interest and Dividends)*.

4. The Kiddie Tax Might Apply. It would be nice if children with substantial custodial accounts were allowed to pay the same tax rates on investment income as other unmarried individuals. If that was allowed to happen, a child's ordinary income would typically be taxed at a federal rate of only 10 or 15 percent (through 2012), and a 0 percent rate would typically apply to long-term gains and dividends (through 2012). Unfortunately, Congress created the so-called Kiddie Tax to prevent such happy outcomes.

Under the Kiddie Tax rules, a minor child's investment income above $1,900, some or all of which may come from assets in a custodial account, may be taxed at the parent's higher rates. This is true even if all the money to fund the custodial account came from a grandparent or someone else other than a parent. Therefore, if the parent is a high-income individual, the federal income tax rate on a child's interest income could be as high as 35 percent, and long-term gains and dividends could be taxed at 15 percent. (The $1,900 investment income threshold for the Kiddie Tax applies for both 2011 and 2012; in later years, it could be higher due to inflation adjustments.)

The Kiddie Tax is calculated on Form 8615 (*Tax for Certain Children Who Have Investment Income of More Than $1,900*) or on the aforementioned Form 8814 (when allowed).

Important Point: In the good old days years ago, a child's custodial account could function as an efficient tax shelter because the income was taxed at the child's low rates. These days, the Kiddie Tax rules make it more difficult for custodial accounts to deliver meaningful tax savings.

5. There Could Be Gift Tax Consequences. For 2011 and 2012, a parent can take advantage of the annual federal gift tax exclusion to move up to $13,000 into a custodial account for each of his or her children. If the parent is married, so can the spouse. Parents can do the same thing year after year. Gifts up to the $13,000 annual limit (for 2011 and 2012) will not reduce the parents' unified federal gift and estate tax exemption ($5 million for 2011 and $5.12 million for 2012).

However if a parent transfers more than $13,000, a gift tax return must be filed on Form 709 (*United States Gift and Generation-Skipping Transfer Tax Return*) even when no gift tax is due. Thanks to the generous exemptions for 2012 and 2011 ($5.12 million and $5 million, respectively), the parent probably will not actually owe any gift tax, but a gift tax return still must be filed.

Hall, Kistler Announcements

Hall, Kistler & Company LLP is pleased to announce the recent hiring of Monica Rankin as Senior Bookkeeper, the promotion of Kelly M. Kimble to Supervisor and the certification of Andrew (Andy) Griffin, CPA as a Certified Public Accountant.

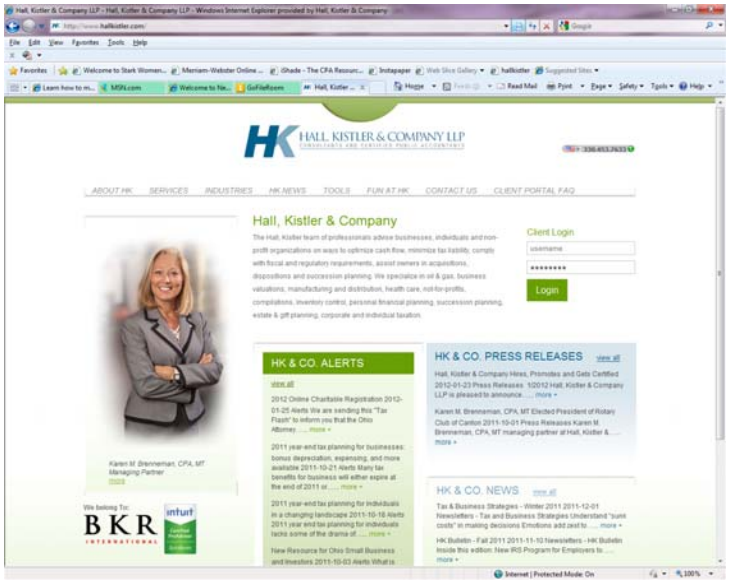
Welcome! Monica Rankin joins the firm as a Senior Bookkeeper with over 15 years as a QuickBooks/ Peachtree consultant and most recently owned her own business. The clients she has served include oil & gas attorneys, doctor offices, insurance companies, restaurants and retail operations. She will continue to work in the areas of bookkeeping, client payroll, Peachtree and QuickBooks consulting, including the installation and upgrade of software.

Congratulations! Kelly M. Kimble has been promoted from Senior Accountant to Supervisor. Her experience includes audit and accounting engagements, audits of qualified retirement plans, review and compilation services, and preparing financial statements and taxation services for clients in manufacturing, service industries, wholesale retail and trade, and nonprofit organizations.

Kelly joined Hall, Kistler & Company in 2004 after graduating from Stark State College of Technology with an associate of applied business degree in accounting. In 2011, she graduated from Franklin University with a bachelor of science in accounting with a minor in finance. She is a member of the Ohio Society of Certified Public Accountants (OSCPA), the Canton Regional Chamber of Commerce, and the Women's Initiative Network.

Congratulations! Andrew (Andy) Griffin has passed the Certified Public Accountants exam administered by the Accountancy Board of Ohio. Andy joined Hall, Kistler & Company LLP in 2004 after receiving his Bachelor of Science Degree in Accounting and Business from Malone University. He practices in the areas of accounting, audit and tax for clients in the oil & gas, manufacturing and distribution and wholesale industries as well as other closely held companies. He serves on several firm committees including the oil & gas and audit and accounting committees.

Andy is a member of the American Institute of Certified Public Accountants (AICPA), the Ohio Society of Certified Public Accountants (OSCPA), and the Council of Petroleum Accountants Society - Appalachia. He is a graduate of the 2007 Spotlight Stark County program and is a member of the Canton Regional Chamber of Commerce.



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2012 Online Charitable Registration

The Ohio Attorney General's office has a new online charitable registration system that was launched on December 1st and is effective for any year end after November 30, 2011. This new system affects groups required to file under the Ohio Charitable Trust Act, which is outlined in the Ohio Revised Code Section 109.23-.33, and the Ohio Charitable Organizations Act, ORC 1716.

Upon registering with this new system, charities will receive:

- E-mail notification of filing deadlines
- Changes in organizational information
- Invoice for fees due
- Confirmations of filings

Among other improvements, this system will replace paper filing of Ohio's Verification of Filing with the IRS (Form VFIRS). The public will be able to check the Attorney General's website to verify if charitable organizations are in compliance with Ohio registration requirements, which will aid prospective donors in determining which charities to support.

The Ohio Attorney General's office encourages each organization to have multiple recipients signed up to receive important email notifications. If you would like to continue having Hall, Kistler & Company file your annual report, please contact us.

For additional information, go to the Ohio Attorney General's website: www.OhioAttorneyGeneral.gov/CharitableRegistration. The Charitable Registration Tool Tips has useful tips on the information that will be needed to complete the registration.

Please call us at 330-453-7633 if you have any questions or concerns.