



Issue #282 - Thursday, March 12, 2020

Edited By: Brandon Ketron

Having trouble viewing this report? [Click Here](#)

**[SAVING TAXES WITH THE CORONAVIRUS](#)**

**[HAVE SIGNIFICANT LOSSES IN A 529 PLAN? TIME TO BUY A NEW ONE!](#)**

**[CORONAVIRUS AND THE WORKPLACE](#)**

**[YES, ITS OKAY TO NUDGE YOUR ELDERLY PARENTS](#)**

## ABOUT THEIR ESTATE PLANNING

### INTRA-FAMILY INSTALLMENT SALES - LOWEST INTEREST RATES EVER AND LOW VALUES MAKE THESE GREAT TOOLS FOR ESTATE TAX PLANNING NOW

*We apologize for the lack of humor in this issue of the Thursday Report, but we don't think that the Coronavirus is something to sneeze at.*

*We've been working hard on our IRA book and hope to have it out in the next two or three weeks. We did not want to burden you with hundreds of pages, but our white paper **What Estate Planners and Tax Advisors Need to Know for Clients with IRA and Pension Accounts After the Secure Act** is available by emailing [alan@gassmanpa.com](mailto:alan@gassmanpa.com)*

### Upcoming Events

## SAVING TAXES WITH THE CORONAVIRUS

A great many workers will be handling more, if not all, of their tasks from home or remote offices as the result of the Coronavirus.

This will enable many employers and employees to re-characterize the relationship that they have with one another from being an employee/employer relationship to an independent contractor relationship.

Individuals who are paid as legitimate independent contractors may qualify for the 20% income tax deduction under Internal Revenue Code Section 199A, but will have to pay significantly higher employment taxes, or may use S corporations or partnerships that have a non-working spouse as a majority partner in order to reduce employment tax exposure.

The new Section 199A Regulations provide that there is a presumption that an individual who was employed and becomes an independent contractor must be characterized as an employee, but the presumption is only a presumption, and can be rebutted by changing the employee's duties, and reducing the control and amenities provided by the employer.

The following are excerpts from our Section 199A book on independent contractor classification and the presumption:

6. Convert wage income into trade or business income by becoming a Schedule C independent contractor or operating an S corporation that owns a trade or business. The Final Regulations provide that a former employee will be presumed to be in the trade or business of performing services as an employee that will not qualify for Section 199A purposes. This presumption continues for three years after the employee becomes an independent contractor but can be overcome by appropriate evidence and documentation that the individual is no longer

appropriately classified as an employee. The Final Regulations make this transition somewhat difficult, but not impossible. Individuals who are presently classified and treated as employees may elect to pay 80% of the federal income tax otherwise incurred upon their net employment income by satisfying the criteria of being classified and paid as an independent contractor instead of an employee. The above planning technique is only available for true independent contractors; thus, employee relationships will be viewed as “sticky” and not easy to change or adapt.

A good many employers will welcome the opportunity to no longer contribute 7.65% in employment taxes on the first \$128,400 (or \$132,900 for 2019) per year of salary (the Social Security Tax cap), plus worker’s compensation, unemployment taxes, state payroll taxes, and expenses associated with payroll tax compliance. 7.65% is the combined Social Security and Medicare tax rates, which are 6.2% and 1.45%, respectively. On salaries in excess of \$128,400, (\$132,900 for 2019) the employer will save 1.45% of Medicare tax.

This strategy can be especially useful for taxpayers below both Section 199A thresholds, who will be able to claim their 20% deduction regardless of Specified Service status or wages paid and Qualified Property held. Therefore, below-threshold business owners should focus on reducing other tax liabilities like the employment tax.

*[The rest of the excerpt can be viewed by clicking here](#)*

Anyone attempting to do this should have appropriate legal and accounting/tax compliance and insurance advice.

Unemployment insurance, worker’s compensation insurance, and liability insurance must all be considered.

Lemonade won’t cure the Coronavirus, but making lemons into lemonade may reduce tax dollars significantly.

## **HAVE SIGNIFICANT LOSSES IN A 529 PLAN? TIME TO BUY A NEW ONE!**

Let’s say that you bought a 529 Plan for \$10,000 that is now worth \$8,000. The next \$2,000 of gains under the Plan are tax free.

As opposed to waiting for the 529 Plan to come back up above \$10,000 to recognize tax savings when it is spent on education, it will be better to buy a new 529 Plan for \$10,000 to be used for education expenses, and to liquidate the old 529 Plan when it comes back up to \$10,000.

Here’s a mathematical example:

You can wait for the \$8,000 529 Plan to increase in value by 25% to \$10,000, and there will be no new tax savings.

If you buy a new 529 Plan for \$10,000, and it goes up by 25% to \$12,500, you can use the new 529 Plan

for tax free educational costs, and cash in the old 529 Plan and therefore have an additional tax savings on a \$2,000 capital gain.

Our 2010 article in Bloomberg BNA on this and other 529 Plan savings strategies can be viewed by clicking here: [https://gassmanlaw.com/wp-content/uploads/2020/03/Unconventional\\_Uses\\_of\\_529\\_Pl.pdf](https://gassmanlaw.com/wp-content/uploads/2020/03/Unconventional_Uses_of_529_Pl.pdf)

## CORONAVIRUS AND THE WORKPLACE

The Coronavirus gives employers the opportunity to review and improve their practices for best facilitating doing the right thing for the right people, including team members and customers.

We had Stetson law student, Alex Matras, peruse presently available literature on what many different companies are doing with respect to the Coronavirus, and his findings are set forth below.

With an infectious virus making its presence known across the world, countries, states, and even companies are altering their policies to adjust for the COVID-19 virus. Currently, the entire country of Italy is on lock-down to prevent the spread of the virus, at least 18 Governors in the United States have declared a state of emergency, and schools across the globe are transitioning their students into electronic classrooms accessible from home. As of present, there are more than 115,000 confirmed cases of the COVID-19 virus worldwide.

There is no denying that the COVID-19 virus is having an impact on everyday life. It is also having a significant impact on major economies, with workers kept at home and supply chains disrupted. Businesses have felt the pressure and are accordingly changing their policies in attempts to keep business as usual in otherwise unusual times.

The Center for Disease Control and Prevention (CDC) released a guide for businesses and employers that focuses on preventing the spread of the COVID-19 virus. [\(1\)](#) This guide released a list of actions businesses could take immediately to help reduce the spread of the virus. The list is quite standard, like ensuring employees that are sick stay home, or if they are at work, separated from other healthy employees, and that the work environment is routinely cleaned. These policies are actively being implemented by businesses across the United States, and large companies like WeWork and TIAA are even closing down its buildings in major cities like Manhattan to sanitize them following outbreaks there. [\(2\)](#)

Beyond the practices recommended by the CDC, major Wall Street banks like Morgan Stanley have completely halted international travel, while Goldman Sachs reportedly switched a 400-person conference to an audio-only webcast citing COVID-19 concerns earlier this month. Other large companies, like UBS, Google, Amazon, Microsoft, and Facebook have implemented work-from-home policies for their employees where applicable, and some have restricted travel in particularly infectious areas. Additionally, many businesses that deal with clients directly are attempting to limit in-person meetings and replace them with virtual ones.

The idea behind these policy changes is that preventative practices will help stymie the spread of the virus. However, should these policies not halt the virus in its tracks, many businesses have also updated their policies should the virus spread to its employees. Companies like Apple, Uber, Darden Restaurants,

and Walmart have all updated their sick leave policies to either incorporate specific COVID-19 policy changes, or provide a blanket-change to their policies that will help address the problems COVID-19 raises.<sup>(3)</sup>

Walmart has announced it will not penalize its workers who call in sick. America's largest employer has also provided that those who are diagnosed with the COVID-19 virus or placed in quarantine will receive up to two weeks of pay while off work, and will not be asked to dip into their pre-existing paid sick leave during that time. This policy will apply for both full-time and part-time workers, and if those infected are not able to return to work after two weeks, additional pay replacement may be provided for up to 26 weeks.

Darden Restaurants, Inc., which encompasses eight chain restaurants including Olive Garden and Capital Grille, announced it would be offering up to 40 hours of paid sick leave each year to all hourly employees—making it one of the first in the industry to do so—citing the COVID-19 virus as part of the reason why the decision was made. Employees will receive an hour of sick time for every 30 hours they work. The policy will have a retroactive effect for current employees, which will award sick time immediately based on the hours worked by the employee over the last six months.

Uber and Lyft, despite classifying their drivers as independent contractors and not employees, which does not entitle them to these benefits, have both announced they will be providing funds to drivers who are diagnosed with the COVID-19 virus or who are in quarantine. Uber has stated it will provide up to fourteen days of sick pay, while Lyft has simply stated it will provide funds to drivers. Other app-based businesses like Instacart that follow a similar independent contracting structure have also followed suit; Instacart's policy copies Uber's, and will provide for up to fourteen days of sick pay to anyone with the virus or who is under mandatory quarantine.

Apple has taken an even larger step, offering unlimited paid leave to any employee—hourly or full-time—who becomes sick with cold or flu symptoms similar to COVID-19. The company also is urging corporate employees to work from home.

While smaller businesses are likely to follow the preventative policies that larger corporations are implementing, it remains to be seen whether smaller businesses will offer the same sort of sick leave compensation that some larger corporations are now offering. Regardless, the impacts of the COVID-19 are tangible, and as long as they are, everyone should make sure they wash their hands and limit touching their face to best avoid infection.

(1) U.S. CDC, Interim Guidance for Businesses and Employers, Centers for Disease Control and Prevention (2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (last visited Mar 11, 2020).

(2) Simon Dawson & Samantha Lee, From travel bans to disaster-recovery sites, here's everything we know about how Wall Street banks are handling the spread of coronavirus, Business Insider, March 11, 2020, <https://www.businessinsider.com/wall-street-contingency-plans-and-policies-for-coronavirus-2020-3> (last visited Mar 11, 2020).

(3) Abha Bhattari, Walmart, Apple and Olive Garden are among major employers updating sick leave policies as coronavirus cases spread, Washington Post, March 10, 2020, <https://www.washingtonpost.com/business/2020/03/10/walmart-apple-olive-garden-are-among-major-employers-updating-sick-leave-policies-coronavirus-cases-spread/> (last visited Mar 11, 2020).

## **YES, ITS OKAY TO NUDGE YOUR ELDERLY PARENTS ABOUT THEIR ESTATE PLANNING**

So many times we have clients tell us that they have not been able to motivate their elderly parents to do estate planning.

Sometimes the squeaky wheel gets the grease.

It's great to check on your parents, and to let them know that you care about them, and also their estate plan.

Quite often elderly individuals are more interested in making sure that they might qualify for Medicaid, and that their assets would be protected from creditors in the event of a car accident or major medical issue, or otherwise.

Our article on providing an estate plan for your parents from our Forbes Blog can be viewed by clicking here: <https://www.forbes.com/sites/alangassman/2020/01/20/why-inherited-ira-wealth-is-now-less-secure-and-what-to-do-about-it>

## **INTRA-FAMILY INSTALLMENT SALES - LOWEST INTEREST RATES EVER AND LOW VALUES MAKE THESE GREAT TOOLS FOR ESTATE TAX PLANNING NOW**

A great many clients are well aware of how we establish special irrevocable trusts for family members, make sure that they have seed capital, and sell part ownership interests in family LLCs and limited partnerships in exchange for long-term promissory notes.

The hopefully temporary reduction in the values of stocks and other assets make this a very good opportunity for smart taxpayers who have confidence that our medical technology will overcome this virus within a reasonably short period of time.

Our video explanation of the installment sale to a defective grantor trust can be viewed on You Tube by clicking here: <https://youtu.be/qw6e-HZDjs4>

Please consider this if you are otherwise estate taxable, keeping in mind that the \$11,580,000 exemption will be reduced by half on January 1, 2026 unless the House of Representatives, the Senate and the

President all sign legislation to the contrary.

This is another possible pitcher of lemonade to be made from the lemons that we find ourselves viewing on television and otherwise with respect to the Coronavirus.

Please note the following chart which shows that the S&P 500 Index has always recovered from every significant downturn by reaching levels much higher than the pre-downturn values:

Here's to history, and the fact that it almost always repeats itself.

## S&P 500 (1950-2016)



Attribution: Overjive / CC BY-SA (<https://creativecommons.org/licenses/by-sa/4.0>)

## Upcoming Events

Alan recently spoke to the UF LL.M. program class of Professor Calfee. The following YouTube playlist includes some of the highlights from the event.

[https://www.youtube.com/playlist?list=PL4T6LFdbkPFkDulBEcCuL5X\\_op2H2Xm4y](https://www.youtube.com/playlist?list=PL4T6LFdbkPFkDulBEcCuL5X_op2H2Xm4y)

Alan will also be moderating a Professional Acceleration Workshop for tax lawyers and those trying to

become one at Amelia Island Resort, Friday, July 3rd 2020 from 9 AM to 1 PM ET.

*Increase your productivity and enjoyment of what you do.*

## Recent Updates

[Register for the full complimentary Learning at Lunch webinar series](#)

Date	Event	Details	Information
DATE TBD	Leimberg Webinar Services (LISI)	Alan Gassman and Barry Flagg present: <b><i>Ten Questions That Estate Planners Should Ask About Life Insurance</i></b>	Registration available soon
DATE TBD	Leimberg Webinar Services (LISI)	Alan Gassman and Jerome Hesch present: <b><i>Hesch and Gassman on Life Insurance - What Sophisticated Estate Planners Need To Know</i></b>	Registration available soon
DATE TBD	Leimberg Webinar Services (LISI)	Alan Gassman and Barry Flagg present: <b><i>Life Insurance Policy Selection and Design - A Deeper Dive for Practitioners Who Care</i></b>	Registration available soon
3/12/2020	Learning at Lunch Webinar Series	Ken Crotty and John Beck present: <b><i>Florida Medicaid Planning</i></b> from 12:30 PM to 1 PM ET	<a href="#">REGISTER HERE</a>
3/21/2020	North American Telugu Society webinar	Alan Gassman and Paula Reeves present: <b><i>Important Knowledge About Term Life Insurance</i></b> from 2 PM to 2:30 PM ET	<a href="#">MORE INFORMATION</a>
3/24/2020	Aging & Wellness Institute in Clearwater, FL	Ken Crotty presents: <b><i>Living Trust-Creating a Legacy</i></b> from 11 AM to 12 PM ET	<a href="#">MORE INFORMATION</a>
		Alan Gassman, Christopher Denicolo	



4/3/2020	Leimberg Webinar Services (LISI)	and John Beck present: <b><i>Is A Family Office The Right Fit For Your Client: When, Where, How And Why?</i></b> from 3 PM to 4:30 PM ET	<a href="#">REGISTER HERE</a>
4/17/2020	2020 Wills, Trusts and Certification Review Course at Hyatt Regency Airport in Orlando, FL	Ken Crotty presents: <b><i>GST tax</i></b> from 3:30 PM to 4:30 PM	<a href="#">REGISTER HERE</a>
4/21/2020	Florida Bar Tax Section CLE	Alan Gassman, Brandon Ketron and Leslie Share present: <b><i>Asset Protection Basics And Strategies (4 hours) SECURE Act (70 minutes)</i></b> from 10 AM to 3:40 PM ET	<a href="#">REGISTER HERE</a>
4/24/2020	Leimberg Webinar Services (LISI)	Alan Gassman and Martin Shenkman present: <b><i>Asset Protection for Physicians and their Practices: The Doctor is In---But Where is the Tax and Estate Planning?</i></b> from 1 PM to 2:30 PM ET	Registration available soon
5/1/2020	USF Resident Intern meeting at Tampa General Hospital in Tampa, FL	Alan Gassman presents: <b><i>Contract Negotiations</i></b> from 4 PM to 5 PM ET	<a href="#">MORE INFORMATION</a>
5/7/2020	Annual May Meeting for Estate Planning Council of Northern Nevada in Reno, NV	Alan Gassman presents: <b><i>Advanced And Innovative Trust Planning, The SECURE Act And More</i></b>	<a href="#">REGISTER HERE</a>
5/15/2020	Martin County Estate Planning Council Annual Tax Seminar in Stuart, FL	Brandon Ketron presents: <b><i>The SECURE Act</i></b>	<a href="#">MORE INFORMATION</a>

5/20/2020	Summer TAX 6065 Contemporary Issues in Taxation at USF in Tampa, FL	Alan Gassman and Professor Gary Laursen present: <b>Communication And Goal Achievement Skills For The Successful MBA</b> from 5 PM to 7:10 PM ET	MORE INFORMATION
5/21/2020	Maui Mastermind Legal Protection Webinar	Alan Gassman presents: <b>The ABCs Of Estate Planning, Personal Creditor and Estate Tax Protection</b> from 12 PM to 1 PM ET	Registration available soon
6/23/2020	Maui Mastermind Legal Protection Webinar	Alan Gassman presents: <b>The ABCs of Business Investment Entity Planning</b> from 12 PM to 1 PM ET	Registration available soon
7/3/2020	Florida Bar Tax Section Workshop at Amelia Island, FL	Alan Gassman presents: <b>Tax Lawyer Professional Acceleration Workshop</b> from 8:30 AM to 12:30 PM ET	More information available soon
7/16/2020	Florida Society of Interventional Pain Physicians Conference at the Diplomat Hotel in Ft. Lauderdale, FL	Alan Gassman presents	<a href="#">MORE INFORMATION</a>
7/24/2020	Maui Mastermind Legal Protection Webinar	Alan Gassman presents: <b>The ABCs of Business Investment And Contractual Relationships</b> from 1:30 PM to 2:30 PM ET	Registration available soon
10/29/2020 through 10/30/2020	46th Annual Notre Dame Tax & Estate Planning Institute	Christopher Denicolo presents: <b>Two Hours Re:SECURE Act</b>	Registration available soon

We welcome contributions for future Thursday Report topics. If you are interested in making a contribution as a guest writer, please email Alan at [agassman@gassmanpa.com](mailto:agassman@gassmanpa.com)

This report and other Thursday Reports can be found on our website at  
[www.gassmanlaw.com](http://www.gassmanlaw.com)

[Unsubscribe here](#)

Gassman, Crotty & Denicolo, P.A.

1245 Court Street

Clearwater, FL

[\(727\) 442-1200](tel:(727)442-1200)