

Steve Leimberg's Estate Planning Email Newsletter - Archive Message #3114

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From: Steve Leimberg's Estate Planning Newsletter

Subject: Eido Walny, Joey Kleiner & Jason McCosby on EstateView Estate Planning Software

Eido Walny, JD, AEP, EPLS is the founder and managing partner of **Walny Legal Group LLC**, a leading boutique estate planning law firm based in Milwaukee, Wisconsin. He is a nationally noted speaker and writer on topical estate planning issues. He has been named to the list of Best Lawyers in America, a SuperLawyer, and was recently named a Wisconsin Power Broker in the field of estate planning by the Wisconsin Law Journal. He is the estate planning editor for Investopedia.com and recently ended his term on the national board of directors of NAEPC, where he also served as the editor-in-chief of the NAEPC Journal. In his spare time, he is the President of the Village of Bayside, Wisconsin, makes cufflinks and restores classic cars.

Joey Kleiner, JD is a lawyer presently practicing with the law firm of **Gassman, Crotty & Denicolo, P.A.**, in Clearwater, Florida. He received his J.D. with a Business Law concentration from Stetson University College of Law in December of 2023 and his positive Florida bar results on Monday! He used his Computer Engineering degree from University of South Florida to help design and refine EstateView software as a law clerk at Gassman, Crotty & Denicolo, P.A., in Clearwater, Florida. Prior to law school, Joey worked as a registered investment advisor representative at Morgan Stanley, and consulted with clients to customize their accounting and project management software with BST Global. He will next pursue an LL.M. in Taxation from Georgetown University beginning in the Fall.

Jason McCosby, JD is a licensed Florida attorney and graduate Stetson University College of Law. He has a J.D. with a Business Law concentration, and is currently a Tax Law LL.M. student at Georgetown University Law Center. He will join Gassman, Crotty & Denicolo, P.A., as an associate, in June of 2024. Jason is a part-time law clerk at **Gassman, Crotty & Denicolo, P.A.**, in Clearwater, Florida and wrote the comprehensive user guide for and contributed significantly to EstateView software. Jason is also a U.S. Army Infantry combat veteran and Purple Heart recipient, having served during Operation Iraqi Freedom in 2006. Prior to attending law school, he earned his undergraduate degree in Business Administration, with concentrations in marketing and management, from University of South Florida.

Estate planning, especially estate tax planning, is highly mathematical, but most planners have had to rely upon general principles and intuition when designing, implementing, and maintaining estate and estate tax plans.

In many situations, these guiding principles will be sufficient for planning purposes because the estate tax can be completely avoided using one or more techniques in combination when the single or married client will clearly fall within the estate tax exemption amount. In other situations, it is far less clear whether estate tax can be avoided - or it is absolutely clear that estate tax cannot be easily avoided without significant charitable transfers, if at all.

Historically, even the most mathematically-minded of planners have had a limited arsenal of tools to use in determining what a client's possible or probable tax outcome may be, and how any particular technique or combination of techniques might impact that outcome.

Most highly mathematical estate tax planners use Excel (or similar spreadsheets) that have been customized over the years, supplemented by "canned" software that provides the IRS-approved or published formulae for determining interest rates, valuation discounts, and required payments or percentages for structures involving short-term, mid-term, or long-term Promissory Notes, Private Annuities, Qualified Personal Residence Trusts, Grantor Retained Annuity Trusts, Charitable Remainder and Lead Trusts, and other common planning techniques.

However, none of the presently existing software programs will allow the user to quickly and insightfully compare the different variables that might apply in designing a planning arrangement. Take for example whether a CLAT should be 15 years, 20 years, or 30 years, and whether it should have level payments, 20% annually increasing payments, or a shark-fin payment arrangement. The inability to meaningfully explore options translates to the planner not fully addressing the client's needs in a meaningful and precise manner.

Being able to see the impact of the various planning options, and the projected financial outcome during and after the term of the structure is a vital component of determining what planning structure to use and how it might holistically impact a client's situation.

Most sophisticated clients now understand spreadsheets and software applications that allow for the visualization of spread-sheeted data, but no estate planning software has been available to enable planners to "dial into" a "best fit" estate tax plan...until now.

Introducing the Gap Closer: EstateView

EstateView is estate planning software that purports to provide "measuring, designing, illustrating, and educating" solutions. It was initially conceived by Alan S. Gassman, a board certified trust and estate planning lawyer from Clearwater, Florida, who has a master of law degree (LLM) in taxation. Mr. Gassman worked with Professor Jerry Hesch, who is the director of the Notre Dame estate tax planning institute and a well-known fixture in the estate and estate tax planning world, to produce and refine EstateView software.

As far back as 2011, Gassman and Professor Hesch began the EstateView project with software engineer David Archer to design and implement a simplified version of what the EstateView program is today. This early version provided logistical and timeline summaries of estate tax plans to allow measurement and visualization of Credit Shelter Trusts, Annual Gifting, Discounted Annual Gifting, and Installment Sales.

Today, the software has been greatly refined and expanded to cater to a vastly more sophisticated market of estate planners and clients. EstateView operates on most internet-browser enabled devices and is hosted by Amazon Web Services. It has been designed so that the user's device is the sole holder and recipient of any inputted information, and data is securely encrypted before being sent to the server for processing.

EstateView takes data privacy very seriously, and is designed to estimate tax implications even without perfectly precise starting values. The planner can also download the inputs to their own device for later use.

Recent Progress and Peer Reception

EstateView's unreleased beta-versions have been used by the law firm of Gassman, Crotty & Denicolo, P.A., since its creation. The software was gradually tested and improved in-house through early 2023, when industry experts approached Gassman about creating a more robust calculator than what was then commercially available. This proposed version would not only measure and illustrate generalized estate tax plans, but also provide planners with the various calculator functions not previously available, while providing more features that planners need to be successful. Among the key features, EstateView benefits planners by:

- 1) Clearly stating the options available for each primary technique, such as options relating to the use of the Applicable Federal Rate and the §7520 rate and the planners ability to select the best rate for the date of the transaction;
- 2) Being able to conveniently show 2, 3, 4 or more "side-by-side" scenarios, using the same planning technique, to illustrate how longer / shorter terms, higher / lower rates of return or asset growth, higher / lower income or spending, or other assumptions could impact the client's financial position;
- 3) Generating spreadsheets, PowerPoints, and other illustrations that would break down the mechanics of various techniques, while displaying annualized client details. For example, the software could display the client's income tax expense from income earned by a Grantor Trust ("the burn") while also showing the effects of "toggling off" Grantor status, either for the term of the particular structure or technique or over the life expectancy of the Grantor and/or the joint life expectancy of the Grantor and the Grantor's spouse;
- 4) Showing the present value of future circumstances. For example, the software could illustrate the actual portion of a Charitable Lead Trust passing to family after waiting 20 years to receive a large payment; or illustrate the real economic value of an income tax deduction upon inception and the future benefit of lifetime, or term of years, annuity or unitrust payments from a Charitable Trust.

Estate View illustrates the financial impact on the decedent's retained assets. This additional feature is important because in certain situations, over a long period of time, the payment of living expenses and the income taxes on the grantor trust's income can fully exhaust the decedent's retained assets while they are still alive. The available commercial software calculators are limited because they only show final results, the estate taxes saved!

– Professor Jerry Hesch

Additionally, through beta-testers, Gassman learned that planners desired simple yet insightful tools for inputting general client information, generating immediate value from initial client meetings. The resulting tools allow advisors to design, illustrate, and explain IRA minimum distribution rules, qualified charitable distributions from IRAs, Monte Carlo based illustrations of possible rates of return, life expectancy data, and estimated costs for term and universal life insurance. With EstateView, an estate planner can now start a client meeting by providing them significant and valuable information about planning strategy that features sophistication and attention to detail.

Gassman redesigned the previously downloadable software into the cloud-based web program it is today. Overwhelmingly positive feedback from planning professionals demonstrates the value of software inspired and designed by those who are using it in the trenches versus its “canned” competition.

With the active assistance of Professor Jerry Hesch, Gassman, Crotty & Denicolo partners Brandon Ketron, Christopher Denicolo, and Ken Crotty, and a number of Stetson Law students with varied business and financial backgrounds, EstateView has been refined to the point that it has been called a “tremendously powerful tool” by estate planning luminaries like Jonathan Blattmachr. Other initial testers have said that it is a “complete game changer,” and “a remarkable tool” for estate planning.

A recent EstateView user had the following to say:

“The starting point of transfer planning is getting the client comfortable that the client will have sufficient cash flow for living expenses for life after making the transfer. Those calculations are made simple with the platform.”

EstateView’s Comprehensive Toolkit

EstateView offers two categories of calculation modules: comprehensive plans and technique-specific calculators. The software now provides a total of 20 professional-grade tools, all in a single location. More modules are to be added in the future.

The software’s “Single Client” and “Married Clients” comprehensive modules allow for quick and easy data entry, including client ages, illustrated dates of death (informed by IRS mortality tables), investment asset values and rates of return, personal net-additions or subtractions from net worth, annual income levels, including dividends or partnership interests, and a personal residential property with its own rate of return or appreciation.

The user can also provide for the number of beneficiaries who may have Crummey withdrawal powers, discount rates to apply for gifting or selling part ownership in entities, whether there may be an “exploding asset” that would increase by a significant amount over a period of years, and the taxes expected to be paid on the sale of the asset. These modules clearly illustrate the financial

results that a married couple, or single individual, may expect both before and after an estate tax plan is designed.

The software allows the user to show the impact of multiple scenarios, including the use of a Credit Shelter Trust, the use or loss of the ability to use the portability allowance, whether the estate tax exemption will decrease by one-half in 2026, the impact of annual gifting (with and without discounts), the impact of one or two Qualified Personal Residence Trusts (with customization as to the term of each QPRT and whether rent will be paid after the possessory term), the results of a large gift or gifts in 2024, the use of an installment sale with a Conventional or a Self-Cancelling Installment Note, the use of testamentary charitable dispositions, and Charitable Lead Annuity Trusts.

Calculator Highlights: What Type of Techniques Are Covered?

For starters, the QPRT calculator enables the planner to show the differences in gift tax exemption used, rent paid, and expected reduction of federal estate tax for Qualified Personal Residence Trusts having differing possessory terms. In addition, it accounts for discounting that may apply if a partial interest is given and the results of varying rates of return that might be realized on a home as it appreciates.

The Private Annuity calculator enables the user to provide for an annuity with equal payments each year, payments increasing each year, and payments that do not begin until after a term of years. The latter payment term is similar to that of the private annuity that was successfully defended in the *Kite* case (Estate of Kite v. Commissioner, T.C. Memo 2013-43).

The Charitable Remainder Unitrust calculator allows for illustration and calculation of payments for both the conventional Charitable Remainder Unitrust, and also a Flip NIM-CRUT, that does not yet show the income tax impact of the deferral of income offered by a CRUT, or CRAT, or Flip NIM-CRUT.

Notably, the Charitable Remainder Trust calculator includes a first and last short-year feature, so that the minimum payments and applicable calculations follow the Treasury Regulation requirement, i.e., that the first and last payment be based upon January 1 to begin and December 31 to end years.

The Self-Cancelling Installment Note (SCIN) calculator enables the planner to use a Note that will balloon after the life expectancy of the individual or married couple whose life the SCIN is based upon. This specific feature is not generally available on other commercially available calculators. While other calculators assume that the term of a SCIN cannot exceed the life expectancy of the individual or married couple that the SCIN is based upon, Professor Jerry Hesch has weighed in on the issue, with his considerable expertise. Hesch advised that there is no prohibition against this planning feature so long as the interest rate is high enough to take into account the higher mortality risk.

Quite possibly, the most popular and impressive EstateView calculator is the Large Gift/Spousal Lifetime (Limited) Access Trust (SLAT) calculator. It allows the planner to illustrate and

determine the possible estate tax savings from a large gift arrangement, with or without a surviving spouse, and with or without gift splitting. In addition, it facilitates the tracking of the Grantor or married couple's probable asset levels, the impact of "the burn," and estimates the age at which the married couple may run out of assets (based on net savings/spending).

The calculator enables the planner to show the impact of toggling-off Grantor Trust status in any year. In planning for the possibility that the Grantor's trust may begin to run low on assets, the calculator allows for a "Private Annuity rescue" or Self-Cancelling Installment Note arrangement. In this plan, some of the Grantor's assets could be traded for a high-paying annuity or high interest Self-Cancelling Installment Note, thereby extending the timeline before the Grantor would be expected to run out of assets.

Helping Show Clients Their Savings

Once the planner has optimized the client's plan, the planner can click on the "Generate Client Letter" button to automatically create an additional Word document with illustrations of each technique, featuring the actual numbers illustrated in the plan. The "Generate PowerPoint" button, found on most calculators, similarly creates PowerPoints with the illustrated planning techniques. For the more hands-on client or collaborative approach, the "Share with Client" button lets the user quickly email a link to the client and/or their other advisors, giving each of them access to that module of the software for two weeks.

EstateView also has two visual outputs that show any combination of scenarios, both a logistical display for flowcharts, including values and trusts in the first year, the year of the first spouse's death and surviving spouse's death, and a second visual output: the graphical timeline shows what the estate tax will be if a death occurs in any year earlier than what is illustrated in the logistical display.

The planner can watch the logistical display or the timeline display while adjusting for different variables, such as dates of death, rates of return, or assets subject to an installment sale, to determine how to best reduce or zero-out estate taxes. As you modify your input assumptions, the program automatically recalculates the outputs in real-time.

"Forecasting the results of planning is essential. Today, there are so many options from GRATs to QPRTs to SPLIT PURCHASE Trusts to charitable lead and remainder trusts that is very hard to decide which one or ones should be recommended. And virtually all are dependent on investment returns, which often are very difficult to predict. But knowing the parameters and how they affect the client's estate planning goals is critically important. And now there is a powerful tool to help you help the client make a more informed and, therefore, a better decision. That tool is Estate View. As they say 'Don't Leave Home Without It.'"

- Jonathan Blattmachr, J.D.

Projecting the NEST Egg: Needs/Estimated Savings Tabulation Calculator

Financial advisors have raved about EstateView's NEST retirement planning calculator, which enables the planner to provide a single individual or married couple with a comprehensive retirement planning spreadsheet. The illustration estimates the year the client may be able to retire and their annual retirement budget, taking into account their ages, asset levels, rates of asset growth, anticipated expenses, and savings rate.

This NEST calculator enables the planner to show a separate spreadsheet column for each primary asset, asset growth rate, and each primary category of income and expenses. It also indicates how much life insurance might be needed in each year of the illustration if the primary wage earner dies before reaching retirement age.

EstateView's NEST calculator is unique in that it will show the client how much more or less they need to save, or how much longer they will have to work, in order to reach their retirement goals. Additionally, it easily shows how a financial decision, such as sending their children to public or private schools, or purchasing a home with a significant mortgage, will affect retirement dates and an annual retirement budget.

Breaking into a New Frontier of Estate Planning

While the Monte Carlo and NEST calculators may not be as sophisticated or comprehensive as those offered by some of the more specialized software programs used by financial advisors, estate planning lawyers, CPAs, and others can use them to start the conversation about retirement planning. The ability to display and explain these factors will help educate and prepare a client for a more comprehensive analysis, if merited.

Many estate planning lawyers have indicated that it is extremely convenient and helpful to have the tools to estimate a client's term life insurance costs in a first meeting. Regarding life expectancy and estate planning for a married couple, it is important to recognize that one of the two spouses is generally expected to live several years beyond the life expectancy of the other. The NEST calculator can be a way to approach the topic and have the client consider an appropriate path to planning for these scenarios.

Take a married couple, for example, where each are seventy years old; the IRS Table 2010CM mortality table will dictate that they have equivalent odds (to each other) of surviving each year. However, when looking out to ten years, using the Life Expectancy calculator, a more detailed picture materializes. At year ten, while independently having a 73.22% probability of survival, there is only a 53.61% probability that both will survive. Additionally, there is a 92.83% chance that at least one of the spouses will survive to that year. This information is extremely valuable when using planning techniques based on one or more lives to determine an applicable term.

EstateView's Impact on the Education of Tomorrow's Planner

Gassman, who also serves as an adjunct professor at Stetson University College of Law in Gulfport, Florida, has made EstateView available to law students, free-of-charge, since inception.

Many of his law clerks and young associate attorneys have had the opportunity to use EstateView as more than just a work tool, but also an educational platform. Gassman intends to expand the availability of EstateView as an educational tool:

“EstateView remains available, free-of-charge, for full-time J.D. and LL.M. students and full-time professors. Hopefully it will have a positive impact on the education of these future estate planning and tax attorneys and lead to the best results for them and their future clients.”

- Alan S. Gassman, J.D., LL.M. (Tax), AEP

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EstateView won't be offered for free, but the rate of return on the cost of EstateView can be significant for a planner. There is tremendous value for a planner who is able to provide appropriate illustrations and more planning techniques and structures for clients. When clients become better educated on financial risk management and available options, they tend to be more willing to go forward with the planning that they need. For the planner, these tools contribute to creating a productive and positive client experience as much as they translate to providing the best methods to facilitate planning.