Estate and Legacy

Key Person

Estate Planning

Gifting

Family Council

This Quarter: Estate and Legacy

This quarter's planning topic, *Estate and Legacy*, helps our clients ease the difficulty of transitions. This saves loved ones' time, expense and anxiety during stressful times. From succession planning for family businesses to health directives, we help identify areas where further expertise is needed. We enjoyed learning about the strategic advantages of charitable giving in March's *Lunch & Learn*, hosted by *The Columbus Foundation*.

Next Quarater: Protection

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Quarterly
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Spring is here! We hope you are enjoying this time of year and trust the tax season is behind you. This quarterly edition includes; a review of the markets, economic milestones and planning insights.

Best Wishes – The Beacon Hill Team

Quarterly Market Review: Q1 - 2012

As the U.S. economy continued its slow march toward recovery and Europe managed to fight off the threat of a Greek default on key bond payments, even higher gas prices couldn't stop equities from powering upward. The S&P 500 registered its best first-quarter performance since 1998, the Nasdaq managed to surpass its October 2007 high, and the Russell 2000 was only 15 points from accomplishing the same thing. Even the Global Dow managed to beat the Dow industrials, despite the Dow's gaining more in a single quarter than it did in all of 2011.

As investors grew increasingly comfortable with equities again, reduced demand for bonds sent yields back above 2%. Tensions with Iran pushed oil prices as high as $108 per barrel, pushing both gas prices and inflation higher despite concerns about slowing economies abroad. Gold regained some of the ground lost last year but then gave back almost half of those gains to end at roughly $1,670 an ounce. And after a strong move during 2011's final quarter, the dollar stabilized a bit.

Market/Index	2011 Close	As of 3/30	Quarterly Change	YTD Change
DJIA	12217.56	13213.04	8.14%	8.14%
NASDAQ	2605.15	3091.57	18.67%	18.67%
S&P 500	1257.60	1408.47	12.00%	12.00%
Russell 2000	740.92	830.30	12.06%	12.06%
Global Dow	1801.60	1998.88	10.95%	10.95%
Fed. Funds	.25%	.25%	0 bps	0 bps
10-year Treasuries	1.89%	2.23%	34 bps	34 bps

Quarterly Economic Perspective

- The U.S. economy continued to recover. The Bureau of Economic Analysis said gross domestic product for 2011's final quarter rose 3%; that's sharply higher than the previous quarter's 1.8% increase. However, China and Europe both showed signs that their economies might be faltering; China lowered its 2012 growth target to 7.5%, both the eurozone and the larger European Union saw a 0.3% contraction in their economies, and Germany and France reported weakness in their manufacturing sectors.
- The Federal Reserve Open Market Committee said it plans to keep interest rates at "exceptionally low levels" through at least late 2014.
- Spiking gas prices translated into higher consumer inflation; a 6% jump in gas prices in February alone helped boost the inflation rate for the last 12 months to 2.9%. Retail sales also were up 6.3% from the previous year, though gas prices accounted for part of that increase as well. Meanwhile, wholesale inflation was up 3.3% (the smallest yearly increase since August 2010).
- Despite dips in sales of both new and existing homes in February, both continued to be higher than the previous year (up 11.4% and 8.8% respectively). However, that didn't translate into higher home prices; according to the S&P/Case-Shiller national index, home prices were at their lowest level since mid-2006. Housing starts also were down slightly in February, but both housing starts and building permits were up more than 34% from a year earlier.
- The leaders of all but two European Union countries signed a treaty designed to impose greater fiscal discipline in the EU, and European banks refinanced almost €530 billion with the European Central Bank to help maintain the financial system's stability.
- In the largest sovereign restructuring on record, 85% of Greek bondholders agreed to swap their holdings for bonds worth almost 54% less. The arrangement allowed Greece to impose the same terms on most of its remaining creditors, qualify for a second round of financial assistance, and make key bond payments. The restructuring meant that financial institutions had to pay off on roughly $3 billion worth of credit default swaps on Greek debt.
- Unemployment continued to fall, ending the quarter at 8.3%, its lowest level in three years. Meanwhile, the number of new jobs added to the economy exceeded 220,000 for three straight months.

Source: Broadridge

401(k) Corner - *Is Roth 401(k) an option?*

While taxes are fresh on your mind, now might be the best time to review whether you should contribute to your 401(k) with pre-tax or after-tax money. Contributions that are put back before-taxes are the Traditional 401(k), while those that are put back after-taxes are the Roth 401(k).

Your tax planner can help you in determining if this is advantageous for you. *More information at http://beaconhilladvisory.com/?p=1540*

Asset Protection Strategies Beyond Insurance

You've worked hard to accumulate your assets and property; that's why it's so important to take measures to protect your wealth. Often, the simplest way to protect assets is by shifting the risk to an insurance company. But insurance may not provide all the protection you need or it might not be available, so you may need to consider other strategies.

These asset protection strategies generally involve transferring legal ownership of assets to other persons or entities, such as corporations, limited partnerships, and trusts. The logic behind shifting ownership of assets is fairly straightforward: your creditors can't reach assets you don't own.

Shifting assets to a C corporation

The law views a C corporation as a separate legal entity. As such, business assets owned by a C corporation are considered separate from your personal assets, which will generally not be at risk for the liabilities of the business.

However, protection from liability may be lost if the business does not act like a business, such as when the business acts in bad faith, fails to observe corporate formalities (e.g., organizational meetings), has its assets drained (e.g., unreasonably high salaries paid to shareholder-employees), is inadequately funded, or has its funds commingled with shareholders' funds.

Shifting assets to other entities

A limited liability company (LLC), limited liability partnership (LLP), or family limited partnership (FLP) is a legal entity that can be used to separate business assets from personal assets.

An LLC is generally taxed like a partnership with income and tax liabilities passing through to its members (and not double-taxed as a C corporation), but it is viewed as a separate legal entity and can be used to own business assets, protecting your personal assets from business claims against the LLC.

If you have business partners, an LLP may protect you from the professional mistakes of your partners. That is, if one of your partners is sued for negligence, and the LLP is also named in the lawsuit, the partner sued may be liable personally for any judgment, but the LLP should protect your personal assets from the reach of any judgment creditor of the LLP.

An FLP is a limited liability partnership formed by family members only. Generally, a creditor can only obtain a charging order against the FLP, which allows the creditor to receive any income distributed by the general partner (who is usually a family member). It does not allow the creditor access to the assets of the FLP. Although each of the entities discussed above are alike in that they can protect your personal assets, they are very different in other ways. Make sure the entity you choose satisfies all of your needs.

Shifting assets to a trust

There are many different types of trusts that can be used to protect assets. A protective trust may protect assets intended to eventually pass to another person. For example, you transfer assets to a protective trust naming yourself and another as beneficiaries. The trust allows you to receive only income from the trust, with no access to the trust principal. At your death, the assets are to pass to the other beneficiary. If you're sued, the creditor can only receive your right to trust income, but not the assets of the trust. These trusts usually contain a spendthrift provision that makes it difficult for creditors to reach trust assets to satisfy claims against trust beneficiaries.

The laws in a few states, such as Nevada, Alaska, and Delaware, enable you to set up a domestic self-settled trust. You can create this type of trust, transfer assets to the trust, and name yourself as beneficiary. The trust gives the trustee discretion over whether or when to distribute trust property or income to beneficiaries. Creditors can only reach property that the beneficiary has a legal right to receive. Therefore, the trust property will not be considered the beneficiary's property, and any creditors of the beneficiary, including you, will be unable to reach it.

Many foreign countries have laws that make it difficult for creditors to reach trust assets held in that foreign country. In order for a creditor to reach assets held in a foreign or offshore trust, a court must have jurisdiction over the trustee or the trust assets. Because the trust is properly established in a foreign country, obtaining jurisdiction over the trustee in a U.S. court action will not be possible. Thus, a U.S. court will be unable to exert any of its powers over the offshore trustee.

Protecting assets doesn't include fraud

Protecting your assets by legally repositioning them does not extend to actions intended to hide assets or defraud creditors. So, make sure you implement any asset protection strategy before there is any hint of trouble, and be sure to carefully document that you are doing so for sound business or other reasons.

Source: Broadridge