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Executive Compensation ■ Succession ■ Wealth Transfer Planning

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Taxpayer Bill of Rights

In June 2014 the IRS adopted a "Taxpayer Bill of Rights." According to the IRS, the document provides the nation's taxpayers with a better understanding of their rights that are already embedded in the tax code, including the right to confidentiality, the right to retain representation, and the right to challenge the agency's position.

Modeled on the U.S. Constitution's Bill of Rights, the Taxpayer Bill of Rights brings together 10 broad categories of rights scattered throughout the tax code. Thus, it builds on previous efforts to identify and specify these rights, making them more visible and easier for taxpayers to call upon when needed. Although the Taxpayer Bill of Rights is not legally enforceable, the IRS has said taxpayers can rely on it with confidence, as the rights listed are already statutorily guaranteed.

The Taxpayer Bill of Rights contains the following 10 provisions:

1. The Right to Be Informed.
2. The Right to Quality Service.
3. The Right to Pay No More than the Correct Amount of Tax.
4. The Right to Challenge the IRS's Position and Be Heard. (This means that taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.)
5. The Right to Appeal an IRS Decision in an Independent Forum. (This means that taxpayers are entitled to the following: a fair and impartial administrative appeal of most IRS decisions, including many penalties; the right to receive a written response regarding an Office of Appeals' decision; and the right to take their cases to court.)
6. The Right to Finality. (This means that taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position and the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt, and they have the right to know when the IRS has finished an audit.)

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Estate Planning for Intellectual Property

If you are an inventor, author, artist, or owner of a closely held business, you may have already taken steps to help protect your **intellectual property rights**. Certain types of intellectual property, such as business ideas, visual art, published or unpublished literary and musical works, inventions, computer programs, and designs of clothing and architecture, may be protected by law through copyrights, patents, and trademarks. When planning your estate, carefully consider these valuable assets to help ensure that they are transferred to your heirs according to your wishes upon your death.

Unique Concerns

Intellectual property is a unique asset, as it is an expression of an individual's knowledge and ideas. While not simply a thought itself, intellectual property is an intangible asset that is the direct result of work or trade. Just as no two individuals think alike, each estate that owns intellectual property must be handled differently. This area of estate planning is continually evolving, particularly as intellectual capital continues to gain significance throughout commerce in general.

Initially, it is important to determine if the intellectual property can be passed down to heirs. Certain types of intellectual property may have inherent **renewal** or **termination rights** through copyrights, patents, and trademarks. This can create questions as to *when* intellectual property rights become transferrable. To address these concerns, some intellectual property owners choose a second executor to handle intellectual property issues in their estates. For example, an author may appoint a family member to oversee the general administration of his or her estate, as well as a second person or entity with experience in intellectual property to handle posthumous publications.

The valuation of intellectual property also poses a challenge to estate planning. The Internal Revenue Service (IRS) offers guidelines for some, but not all, types of intellectual property. For instance, the valuation of literary work is based on the copyright's future earnings potential reduced to its present value. Theoretically, this valuation methodology may also apply to other types of intellectual property. However, the question may remain as to how far into the future the potential for earnings exists. It may be possible to hire a professional appraiser to help determine the current value of intellectual property and how future trends may affect this value. But, it is also important to choose someone with expertise in the area of intellectual property.

Estate Taxation

Estate taxation affects individuals with substantial assets, regardless of the type of property that is included in his or her estate. However, intellectual property sometimes creates additional concerns. Just as an executor might be forced to sell a family vacation home solely to pay for estate taxes, a best-selling author may fear that, after his or her death, the future publication rights to an unpublished work will need to be sold for the same reason. If a large portion of an individual's assets is "intellectual" in nature, this can be a major concern.

Proper estate planning is pivotal in helping to make sure the decedent's wishes are able to be carried out. A **life insurance** policy purchased and owned by an **irrevocable life insurance trust (ILIT)**, if correctly structured and administered, can provide cash at death to help satisfy estate tax obligations. This use of life insurance can provide flexibility in an estate with only a small amount of liquid assets.

Also, if the intellectual property is of significant size, gifting some or all of the property to a recognized charitable organization at death can help to lower estate taxes. The estate of the decedent would receive a charitable contribution deduction against estate taxes based on the fair market value of the gift at death.

One Step at a Time

Estate planning for intangible assets, such as intellectual property, involves an array of complicated considerations. A basic understanding of the issues involved merely underscores the need for appropriate planning to help ensure the ultimate distribution of your assets according to your wishes. If you own intellectual property, be sure to consult with your estate planning team, including financial, legal, and tax professionals. ■

What You Need to Know About Financial Fraud

Many of us grew up in a world where it was customary to be friendly, courteous, and trusting. Unfortunately, assumptions concerning these standards of conduct can sometimes get us into trouble. Con artists offering a variety of too-good-to-be-true investment "deals" are banking on the willingness of trusting individuals. Unfortunately, many people experience financial difficulties, thus making them more vulnerable to financial fraud.

With the multitude of contact options, ranging from the phone to the Internet, scammers have virtually an unlimited number of opportunities to obtain another individual's personal information. Common scams include e-mail chain letters that promise a pyramid of payoffs that always fall apart once the victim has bought into the system. Another is one in which a foreign prince, doctor, or chief e-mails the victim and claims to need assistance transferring his riches to an American bank account. The victim may be promised as much as 30% of the transferred millions and is asked to pay the perpetrator a fee to prove his or her honesty.

Fake charities are another common scam. Kind-hearted donors may be swindled into paying large sums to a cause that benefits only the con artist. Phone calls and postal mail can be used to offer individuals the chance to "win" the lottery or claim a sweepstakes prize. In the end, these supposed winnings only end up causing financial loss and heartache. Topping off all of these scams are fraudulent investment opportunities wherein the victim may be promised fantastic returns on

capital from "lucrative" oil and gas leases, rare coins and metals, etc.

Too often, these scams go unreported because of the shame victims experience once they realize they have been had. And that's just what scammers are banking on. The FINRA Investor Education Foundation teamed up with WISE Senior Services and the AARP to study economic fraud. In a report entitled, "Off the Hook Again: Understanding Why the Elderly Are Victimized by Economic Fraud Crimes," several discoveries were made that can be applicable to people of all ages. One focus of the report was the psychological tactics typically used by cons to increase their success rates and decrease their chances of being reported. Victims may be led to believe that their only option is the one being presented in the scam, or the scammer may befriend the victim knowing that people are less inclined to ask friends hard-hitting questions. Another ploy is a request for help from the scammer, which taps into the victim's sympathy. Or the scammer may claim famous investors are also buying into the property, or the product is in such high demand and so rare that the victim is lucky to have even heard about it in the first place.

Con artists may also use their assumed authority to coerce victims into letting the con make the decision for them; offer no-risk, guaranteed results; intimidate the victim by playing on his or her fears; or procure more and more payments by telling victims they are committed to the investment and must continue to invest in order to not lose the sums they have already paid.

On paper, these tactics might sound entirely transparent; in reality, they are often extremely effective. Anyone can become a victim, regardless of age. The FINRA study also revealed that fraud techniques may be tailored to the psychology of the individual. Financial education alone may not be enough to put an end to fraud, since one of the study's major findings indicated that fraud victims are more financially educated than non-victims and more willing to listen to sales pitches. In addition, victims are more likely to have experienced negative life events, such as job loss, divorce, or the death of a spouse.

Anyone approached with a "must-act-now" deal is advised to walk away and do some research. Be skeptical, question why the offer is being made to you, and contact the Better Business Bureau to learn more. Don't waste time listening to cold-call sales pitches, and make sure to get second opinions from friends and family before taking action on any "hot" deal. In the end, follow the old adage: If it sounds too good to be true, it probably is. To learn more, visit www.consumerfraudreporting.org. ■

taxpayer bill of rights

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7. The Right to Privacy.
8. The Right to Confidentiality.
9. The Right to Retain Representation. (This means that taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS, and the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.)
10. The Right to a Fair and Just Tax System. (This means that taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information in a timely fashion. And they have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulties or if the IRS has not resolved their tax issues properly and in a timely manner through its normal channels.)

The IRS said it released the document following extensive discussions with the Taxpayer Advocate Service, an independent office within the IRS that represents the interests of U.S. taxpayers. Adopting a Taxpayer Bill of Rights has been a goal of National Taxpayer Advocate Nina E. Olson since 2007, and it was listed as the Advocate's top priority in her most recent annual report to Congress.

Commenting on the adoption of the rights, Olson noted that a survey by the Taxpayer Advocate Service in 2012 found that only 46% of U.S. taxpayers believed they had rights in relation to the IRS, and only 11% knew what those rights were.

"Congress has passed multiple pieces of legislation with the title of 'Taxpayer Bill of Rights,'" Olson said. "However, taxpayer surveys conducted by my office have found that most taxpayers do not believe they have rights before the IRS and even fewer can name their rights. I believe the list of core taxpayer rights the IRS is announcing today will help taxpayers better understand their rights in dealing with the tax system."

Olson and IRS Commissioner at that time John A. Koskinen added that they would continue to seek a formal enactment of taxpayer rights by Congress. Koskinen further emphasized that the document would be used to support his continuing advocacy for budgetary resources for the IRS to fulfill its commitments to protect taxpayers.

The IRS reported that starting in 2014 a printed version of the document will appear in Publication 1, "Your Rights as a Taxpayer," which will be sent to taxpayers when they receive IRS notices on issues ranging from audits to collection, and the rights will also be publicly visible on IRS.gov and in all IRS facilities. Publication 1 is available in English, Spanish, Chinese, Korean, Russian, and Vietnamese. ■