

*A common sense approach
to the practice of law*

A Reverse Mortgage as an Estate Planning Tool

For many homeowners, the family home remains their largest single asset, even after the burst of the housing bubble. It is becoming increasingly imperative to use that asset in estate planning.

Recent research from Boston College's Center for Retirement Research has found that more than 60 percent of households are "at risk" of being financially unprepared for retirement, unable to maintain their pre-retirement standard of living.

Protecting home equity for heirs may be a luxury few baby boomers and current retirees can afford, given the prospects for social security, increasingly meager 401k balances, and the diminution of traditional pensions.

A reverse mortgage is a financial tool available only to homeowners 62

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Why No Estate Tax Could Be a Killer

So you thought "repeal" of the estate tax was a good thing. Consider the article below reprinted from the February 13, 2010 Wall Street Journal and written by Laura Saunders.

Congress shocked everyone by letting the estate tax lapse on Jan. 1.

Now, here is the real stunner:



Mark Matcho

For many, the lapse actually will raise taxes.

Under last year's law, estates up to \$3.5 million, or \$7 million for married couples, were exempt from federal tax. This year that law has been replaced by a fiendishly complex levy raising taxes on the assets of those with little as \$1.3 mil-

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REFERRALS

Referrals constitute a majority of our business. If you have a family member, friend or co-worker that needs our assistance, please feel free to give them our number. Rest assured they will receive the same ingenuity, integrity, and common sense approach that you received. **Referrals are the greatest compliment we can receive.** Thank you!

SORRY TIM!

Our apologies to Tim Connor for failing to acknowledge his authorship of the article "Conversion to a Roth IRA—when is it Tax-Smart?" in the last edition of the McDowall Times.

Tim Connor is the manager of The Heritage Group's San Francisco office, and a well-known expert specializing in asset preservation. He has over twenty-five years experience in the field, holds a Ph.D. in Economics and Finance and frequently lectures before Financial Ad-

visors, Attorneys and CPAs. Tim was invited to address the ICG Real Estate Investors at their February 28, 2009 conference in San Francisco.



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WORKSHOPS

We are hosting a complimentary two-hour workshop, "Planning for a Loved One with Special Needs" at McDowall University - located at 2070 Pioneer Court, San Mateo, CA 94403.

McDowall Cotter will be holding this seminar to answer many of the critical questions involved with planning for a person with special needs. Please invite anyone you know with children or parents with special needs..

See the enclosed flyer for more details.

Reverse Mortgage as an Estate Planning Tool

(Reverse Mortgage — Continued from page 1)

and older, which allows access to cash – a portion of the equity in the home. No repayment of principal or interest is required of the borrowers while living in the home. Instead, interest is added to the loan and paid when the house is sold or after the homeowners move from the home.

For loans insured by the US Government, the homeowner (and their heirs) can owe no more than the value of the property at time of sale (assuming an “arms-length” transaction). This is an extremely valuable protection in a yet volatile housing market.

Homeowners ALWAYS retain title to the home and share no appreciation with the lender. How much a homeowner can receive varies with 4 different factors – the most important is age. The older the homeowner is, the more he/she can receive.

Reverse mortgage proceeds can be used for any reason whatsoever. For example, historically they have been used to pay off existing mortgages and credit lines (in order to increase monthly cash flow), to fund in-home companion or medical care, and

to provide access to cash in order to make home improvements to safely “age in place”.

But they can also be used to buy long term care insurance, life insurance or other similar tools to aid in the aging process. For young retirees, a Reverse Mortgage may be used to supplement income and forestall initiation of social security payments that are substantially larger at an older age. Reverse Mortgage proceeds may also be used to fund a grandchild’s education or even assist adult children in these tough economic times.

And, as of January 2009, a Reverse Mortgage may also be used for home purchase, making it possible to downsize from Mega Mansion to Cozy Cottage. In conjunction with California property value transfer propositions still in place, this can be extremely beneficial to homeowners who have no interest in maintaining a large home but do NOT want to move all equity from their former home to another property.

In today’s marketplace (compared to 2007 or earlier), only Reverse Mortgages insured by the

government are available, and are known as a Home Equity Conversion Mortgage (HECM). Government insurance is a substantial part of the closing costs but provides protection for both the homeowner borrower and the lender.

The *borrower* is protected if the lender, or his loan servicing company goes out of business. The government will step in and make sure the borrower has continued access to loan funds.

The *lender* is protected if the borrower owes more money than the value of the home at the time the loan is due. Since the lender’s risk is reduced, this allows the lender to lend more money and to offer far lower rates than generally seen in the marketplace. For example, adjustable rate mortgages are closing at less than 3% and fixed rate loans are generally around 5.5%.

A Reverse Mortgage is not for everyone and not everyone will qualify. But it is a 40-year-old financial tool that is taking an increasingly important role in the marketplace and in estate planning. How baby boomers

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Welcome Stephanie and Dara!

McDowall Cotter is proud to announce that it has added two associate attorneys to our litigation team. Stephanie Zeller and Dara Tabesh are seasoned attorneys, each having spent 7 years in the trenches at Morrison and Forrester.

Stephanie gained her experience not only as a securities litigator involved in SEC, DOJ, FINRA and internal investigations, but in general commercial litigation, bankruptcy fraud defense and common interest development law. Stephanie has successfully

represented companies, audit committees, directors, officers and pro bono clients in a wide range of industries, including financial services, telecommunications, software and pharmaceuticals.

Dara sharpened his skills by practicing in the area of intellectual property. His litigation tools were developed by drafting patent and copyright applications, participating in copyright litigation and patent infringement cases.

At McDowall Cotter, Stephanie and Dara, in assuming day-to-day handling of the prosecution of Elder Abuse cases and defense of public entity cases, have demonstrated a common sense approach to the problems and solutions our clients need. Over the next few months they will begin to represent more of our insurance defense, trust and probate litigation and employer clients.

We are thrilled to have you on board, WELCOME STEPHANIE AND DARA!

Upcoming Workshops

PLANNING FOR A LOVED ONE WITH SPECIAL NEEDS

Friday, April 30, 2010

10:00AM to 12:00PM

2070 Pioneer Court, San Mateo

See the enclosed flyer for details.



SUCCESSOR TRUSTEE TRAINING

Monday, June 14, 2010

10:00AM to 12:00PM

2070 Pioneer Court, San Mateo

This free workshop is an overview of the legal and procedural requirements of trust administration to assist clients and their trusted family advisors to properly discharge the duties of the trustee in the event of death or incapacity.

ESTATE PLANNING TUNE-UP

Thursday, July 15, 2010

10:00AM to 12:00PM

2070 Pioneer Court, San Mateo

A free workshop where you can review your existing Estate Plan and make sure it is up and running for you. This workshop will highlight the roll-out of our maintenance program learn how to keep your estate plan up to date and working for you.

WHY NO ESTATE TAX COULD BE A KILLER

(Estate Tax —Continued from page 1)

lion. It will affect the heirs of at least 50,000 U.S. taxpayers who die this year, whereas the old law affected only about 15,000 estates a year, according to the Tax Policy Center.

"The new system is far worse for many people who have assets between \$1.3 million and \$3.5 million," says veteran estate lawyer Ronald Aucutt, of McGuire Woods.

This little-understood facet of the current law was enacted as part of a deal brokered in 2001 with the expectation Congress would never let the estate tax actually expire. It isn't clear when, or even if, a badly polarized Congress will take up the estate tax this year.

Legal Challenges

If lawmakers do bring back the estate tax, that would bring another set of problems. Reinstatement of the tax retroactive to Jan. 1, which many advocate, will bring legal challenges from wealthy estates that could take years to resolve. But if

some version of the old system isn't reinstated, heirs of smaller estates will suffer...

Winners and Losers

Beth Shapiro Kaufman, an attorney with Caplin & Drysdale, made estimates showing who is better off under last year's versus this year's system. She found that heirs of estates with assets totaling between \$1.3 and \$4.3 million would often have been better off last year, while those with bigger estates will do better this year.

Current law does give some relief to heirs of smaller estates. All estates receive at least \$1.3 million of exemption from the tax on appreciation. The executor can "cherry-pick" assets after death and assign the exemption to maximize its value.

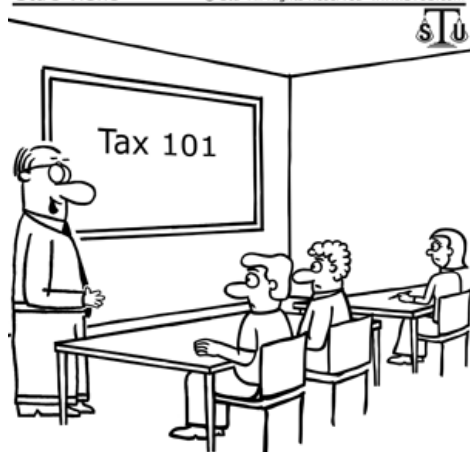
But the law is full of traps and demands detailed record keeping. Experts are telling those affected to avoid irrevocable actions, like distributing or selling assets, while the situation remains unresolved.

Some hope that Congress will wind up doing what it did when a similar tax regime was tried in the late 1970s. It was repealed after an uproar, but the estates of those who died while the law was in flux got to choose which system to use.

Such an approach could avoid some ugly family situations. Last December, some wealthy people were kept alive until the estate tax lapsed in January. "But if the tax comes back," says Mr. Aucutt, "Relatives might be tempted to pull the plug."

Stu's Views

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The Internal Revenue Code is absurdly complex or, as we lawyers say, a goldmine.

Reverse Mortgage

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and future generations decide to use their home equity could determine how well many fare in retirement.

Judy Schwartz is co-owner of Reverse Mortgages Only. She understands all of the types of Reverse Mortgages in the marketplace and the nuances between them. She regularly contributes to the San Francisco Examiner's Senior Spotlight published the second and fourth Tuesdays of each month.



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A Common Sense Approach to the Practice of Law

McDowall Cotter has served clients in the greater San Francisco Bay Area for more than half a century. In that time, we have established a reputation, in the courts and in the community, for ingenuity, integrity, and a common-sense approach to the practice of law.

It has been said that in some ways we are an old-fashioned law firm. We believe in civility, value long-term relationships, cultivate a healthy work environment, and provide the highest quality legal representation in matters large and small. And we agree — we are old-fashioned, but then again we've been old-fashioned for more than fifty years and still somehow we remain ahead of our time.

Our services include:

- Estate and Trust Planning
- Trust Administration
- Probate
- Will Contests
- Trust Contests
- Challenges to Trustees and their actions
- Employer/Employee Relations
- Personal Injury Lawsuits
- Defending Civil Lawsuits
- Partition Actions
- Construction—Mechanic's Liens
- Trademark Applications
- Corporation, LLC Formation

McDowall Cotter

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