

Belcor Benefits, Inc.
 1633 Broadway – 3rd Fl
 New York, New York 10019
 Jack Sobel, CLU CPC

Tel (212) 408-9509
 Fax (212) 408-9528
 e-mail: info@belcorcos.com
<http://www.belcorcos.com>

2007 ALERT

IRS Limitations, Deductions, Taxation, and Planning Techniques, effecting Life/Health Insurance, Gift, Estate and Retirement Plans.

Gift and Estate Tax Issues: following are the tax rates

<u>Year</u>	<u>Estate and GST Exemption</u>	<u>Maximum Estate and Gift Tax Rate</u>
2007 and 2008	\$2 Million	45%
2009	\$3.5 Million	45%
2010	No Estate Tax	0
2011	\$1 Million	55%

Comments:

Annual Gift tax exclusion is \$12,000. Per donee, per year. If you have three children you can give \$36,000 as can your spouse. Except that under a 529-college plan, any individual can gift 5 years worth in one year or \$60,000 per donee. In addition to the annual exemption there is also a Lifetime Gift Tax exemption of \$1,000,000 per individual.

There are no estate or gift transfer taxes between spouses. At the last to die however, the tax is onerous. Each spouse should have his or her maximum exemption. Gifts to children are one way of transferring property and having the appreciation outside of the taxable estate. Gift examples indicate the advantages.

Gift Examples: The Advantages of Different Forms of Gifts vs. Estate Tax

An individual, age 55 with a \$25,000,000. Estate, wishes to pass \$3,000,000 to his/her children, assuming no marital or lifetime deductions. The first example assumes property is passed at death, the second by gift, and the third assumes a personal residence is transferred with the use of a Qualified Personal Residence Trust (QPRT).

	Pass Thru The Estate: OR	Current Gift: OR	Residence 20-Year QPRT*:
Tax Collector	\$1,500,000	\$1,000,000	\$ 235,488
Family	<u>\$1,500,000</u>	<u>\$2,000,000</u>	<u>\$3,000,000</u>
Total Amt. Transferred	\$3,000,000	\$3,000,000	\$3,235,488

*Section 7520 rates of 5.4% was used for the Qualified Personal Residence Trust (QPRT) and a 50% federal and state tax rate was assumed. Summer homes are a good item to consider.

If the grantor was age 65 and the QPRT was for 15 years, then the gift tax would be \$269,025. A 75 year old with a 5 year QPRT would have a \$598,799 tax.

Any appreciation in the property is not part of the estate. The grantor at the end of the term has to pay rent to the children, (who now own the property) thus removing assets from the estate without paying gift taxes. The grantor should have sufficient assets for his lifestyle to do this.

The residence can be sold and a less expensive home be bought. The difference received by the QPRT can be paid out in the form of an annuity (GRAT) to the grantor for the balance of the term, adjusted for interest, etc.

If the grantor dies before the term of the QPRT ends, the value of the property is brought back into the estate and subject to estate taxes. Insurance can cover this and can be estate tax-free, if owned by an Irrevocable Life Insurance Trust, or other third party (ex. children)

Assuming the grantor is funding an Irrevocable Life Insurance Trust and the financial circumstances change, the policies can be transferred to the children, who can then pay the premiums from the rental income. The trust provisions must permit the transfer.

Other Planning:

Estate and Income Tax Free Insurance - Insurance owned by a third party (Irrevocable Life Insurance Trust or other Third party such as ones children.), will be income and estate tax free.

Family Limited Partnership Reduce Taxes, etc., can be a useful tool in estate planning, asset protection and succession planning. Gifts can be made of business interests at a discount of 20-40% for gift tax purposes. The discount is a result of minority interest, lack of marketability and lack of liquidation rights.

Buy-Sell and Succession Planning The most important item here is proper valuation, which is necessary for IRS purposes. This and a good buy-sell agreement may fix the value for estate tax purposes, as well. Valuations should be done periodically and agreements should be reviewed and any grandfathering by law should be considered before making any changes. Tax planning may suggest alternative forms of establishing the sales price.

Health Insurance Premiums Self-employed individuals (S-Corp. employers, etc.) are permitted to deduct 100% of the amount paid for health insurance premiums for themselves, their spouses and their dependents.

Individual Partners, etc., is deductible subject to the maximum limits, which are as follows: Age 51-60 is \$1,110. Age 61-70 is \$2,950. Age 70 and older is \$3,680. The per diem limitation for periodic payments is \$260 unless used for qualified LTC services. Any Excess premiums will be subject to the 7.5% rule. Spouses' premiums are also deductible.

Long Term Care Riders To Life Insurance Contracts

An alternative to buying a separate Long Term Care policy that you may never use is a rider to a permanent life insurance contract. Because of longevity the odds are that one will need some form of long-term care.

Typical Costs of Long Term Care

			Home	
New York	Semi-Private	Private	Health Aid	LPN
2005	\$ 89,060	\$ 95,995	\$ 55,480	\$207,320
10 years	\$159,493	\$171,912	\$ 99,356	\$371,279
20 years	\$285,627	\$307,869	\$177,932	\$664,903
Florida				
Now	\$ 57,305	\$ 68,255	\$ 52,560	\$157,680
10 years	\$102,625	\$122,234	\$ 94,127	\$282,381
20 years	\$183,785	\$218,903	\$168,567	\$505,701

Profit Sharing and Other Defined Contribution Plans Profit Sharing Plans, which are discretionary plans (not tied to profits), allow up to 25%, as a deduction on total payroll. These Plans can be designed to favor the Keys. Adding a 401(k) feature provides more advantages.

Defined Benefit Plans can provide maximum deductions and benefits for highly paid-older employees. The following are examples of contributions at various ages, assuming \$200,000 of compensation. The following contribution and lump sums will depend upon mortality, interests and other government rates, etc. Various retirement ages illustrated.

<u>Entry Age</u>	<u>Contribution</u>	<u>Retirement Age</u>	<u>Lump Sum at Retirement Age</u>
40	\$ 57,407	55	\$1,416,385
45	\$101,376	55	\$1,416,385
50	\$129,385	60	\$1,807,714
55	\$132,082	65	\$1,845,393
60	\$141,872	70	\$1,982,186
65	\$118,135	75	\$1,650,535

Alternative Retirement Ages

50	\$118,505	55	\$ 708,106
55	\$151,252	60	\$ 903,779
60	\$154,430	65	\$ 922,765
65	\$165,855	70	\$ 991,034

Fund Life Insurance with Qualified Retirement Funds Insurance purchased by a Qualified Plan will provide income tax free benefits in excess of the cash values with tax-deductible dollars. There is a small recoverable imputed income charge.

Simple Retirement Account: Annual limits will remain at \$10,500 with \$2,500 catch-up.

IRAs Limits \$4,000, if under age 50. Catch-up contributions of \$1,000 for individuals, reaching the age of 50 by the end of the year, is also allowed.

The above are overall contribution limits, not deductible contribution limits. The amount you can deduct will depend on your status as an active participant in an employer-sponsored plan and your adjusted gross income.

Non-working spouses' will be allowed to have a fully deductible IRA subject to income limits, irrelevant of their spouses' plan coverage.

Roth IRAs are non-deductible Tax Deferred IRAs, which allow for tax-free distributions if certain conditions are met. Unlike regular IRAs, contributions may be continued and distributions are not required at age 70.5. There are income limits, as is the case with regular IRAs

Beginning in 2010, a recent tax law change eliminates the \$100,000 adjusted gross income ceiling for converting a traditional IRA into a Roth IRA.

It may be useful for those who do not need the money and who have a long time horizon, so that the funds can grow tax-free. They can then, distribute the IRA to their heirs on a tax-free basis and perhaps over their lifetime. Low tax basis individuals might also do well.

The Annual Compensation Limit The 2007 limit, for Qualified Plan Benefit purposes, is \$225,000. The benefit may be based upon the average of 3 years of compensation.

Annual Pension Limits Defined Benefit is \$180,000. Defined Contribution is \$45,000

401(k)/403(b) Limit Elective Deferrals are \$15,000 plus catch up contributions of \$5,000 for participants who attain age 50 by the end of the calendar year.

401 Roth (k) This option requires lot of thought. The individual tax bracket, now and later, and whether he or she is subject to the AMT.

K Issues. If the highly paid, have high utilization, it may cause failure to meet the non-discrimination tests of the plan. There are remedies including safe harbor designs.

Required Distributions Past 70 1/2, 401(k) s and Other Qualified Plans will allow a less than 5% owner participant to defer distributions from the employer plans, if the plan permits.

New Rules and Minimum Distribution Amounts for IRA's, 401(k)'s and other Qualified Plans

An example of the **Uniform Life Expectancy Table** is as follows:

<u>Age</u>	<u>Years*</u>	<u>Age</u>	<u>Years*</u>
70	27.4	81	17.9
71	26.5	82	17.1
72	25.6	83	16.3
73	24.7	84	15.5
74	23.8	85	14.8
75	22.9	86	14.1
76	22.0	87	13.4
77	21.2	88	12.7
78	20.3	89	12.0
79	19.5	90	11.4
80	18.7	91	10.8
		92	10.2

****Distribution Span in Years***

- To determine a year's required distribution, divide the sum of the prior Dec. 31st balance in your Plan(s) by the withdrawal period for your age that year
- A new table value is used every year. There is a mandatory re-calculation for every participant, whether it is the husband and wife alternative, or an individual using the uniform table. Each year, based upon the participant's age, you select a new value from the table
- If the spouse is more than 10 years younger, then the actual life expectancies of both parties can be used. This will result in a lower distribution. The table assumes the beneficiary is 10 years younger than the employee
- The designated beneficiary is determined as of the end of the calendar year, after the day of death. This gives you a one-year period to determine the beneficiary designation
- Changes can be made after the day of death, by the use of disclaimers. Therefore, a spouse who does not need the funds can disclaim in favor of the secondary beneficiaries.
- If the Employee dies before his/her required beginning date, the benefits are paid to the beneficiary over their life expectancy. Distribution can begin after the calendar year following the date of the death.

Year 2007 Taxable Wage Base, which is the maximum amount of earnings subject to social security (OASDI) tax, will be \$97,500. Medicare tax is on total earnings.

Employer and Employee – Social Security 6.2% Medicare 1.45%
 Self-employed taxpayers – Social Security 12.4% Medicare 2.9%

Top income Tax Brackets for 2007

Married, filing jointly

\$128,501- \$195,850 28%
 \$195,851- \$349,700 33%
 Over \$349,700 35%

Single

\$77,101- \$160,850 28%
 \$160,851- \$349,700 33%
 over \$349,700 35%

Estates and Trusts

\$0- \$2,150 15%
 \$5,000- \$7,650. 28%

\$2,151- \$5,000 25%
 \$7,651- \$10,450 33%
 over \$10,450 35%

Note: If a grantor trust, it will be taxed at the grantor’s tax bracket, which is 35% over \$349,700 rather than the trust rate, which is 35% over \$10,450.

*Life insurance irrevocable trusts are often structured as a grantor trust.

Trust Owned Life Insurance Uniform Prudent Investors Act (UPIA) require monitoring of life insurance by trustees. Many contacts do not meet original projections and may terminate before the client. The trustee can be held accountable for such failures.

Annual Reporting of Employer owned life Insurance. Code section 101(j) recently added requires all corporate owned policies issued after to August 17, 2006 to have had notice and consent forms filed, and to maintain records and do annual filings with the IRS. Unless safe harbors are met there may be a taxable event on the proceeds in excess of the premiums paid. This effects all Employer owned policies including those used for buy-sell, key-man, deferred compensations etc.

Tax Savings for Employers and Employee that will Benefit Key Persons and retain them
 Many tax benefits have been removed but there are still a few approaches that may allow a firm to provide benefits that can save taxes or provide non taxable benefits for key employees

“We do not provide tax, legal or accounting advise. You should consult your own tax, legal and accounting advisors before engaging in any transaction”. In order for us to comply with Internal Revenue Service Circular 230 (if applicable), you are notified that any discussion of US federal tax issues contained or referred to herein is not intended or written to be used, and cannot be used, for the purpose of:(A) avoiding penalties that may be imposed under the Internal Revenue Code; nor (B) promoting, marketing or recommending to another party any transaction or matter discussed herein.