PASTERNAK & FIDIS
REPORTER

Obama Administration's Proposals for Estate Tax Changes

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INSIDE ▶

The Treasury Department issued on May 11 its General Explanations of the Administration's Fiscal Year 2010 Revenue Proposals, nicknamed the Greenbook, to outline the Obama administration's proposed tax law changes. The proposal contains two items that could significantly affect the use of certain estate planning techniques that currently offer powerful tax-saving opportunities.

Minimum Term for GRATs

A GRAT (grantor retained annuity trust) is an irrevocable trust to which a grantor transfers property that he or she believes will appreciate. For a fixed period of years (the GRAT term), the grantor retains the right to receive a fixed annuity, after which any remaining trust assets pass to the grantor's beneficiaries, either outright or in trust. The purpose of a GRAT is to remove future appreciation on assets from the grantor's taxable estate and pass that appreciation to children with no gift tax. For that reason, the technique works best in an economic environment much like the one we are experiencing now, where interest rates are low and market values are depressed.

The grantor is deemed to have made a taxable gift to the remainder beneficiaries upon establishing the GRAT. The value of the gift, however, is not the fair market value of the assets contributed to the GRAT. Rather, the value of the gift is the fair market value of the assets reduced by a present value calculation (determined by IRS rules) of the grantor's retained right to receive an annuity during the GRAT term. The grantor's retained annuity can be designed so that its present value equals (or nearly equals) the current value of the assets contributed to the GRAT. This means the present value of the remainder gift to the grantor's beneficiaries is nearly $0.

GRATs are routinely designed with short terms of 2-3 years to take advantage of short-term appreciation opportunities and to minimize the risk that the grantor will die during the term. If the grantor does die during the GRAT term, little to no transfer tax savings will have been achieved, because a considerable portion of the GRAT assets would be includible in the grantor's estate. Estate planners often recommend a series of short-term GRATs designed to roll forward from year to year, so that as each annuity payment is received by the grantor from one GRAT, that amount can be used to fund a new GRAT on similar terms.

The administration's proposal would alter the landscape of GRAT planning, because it would prohibit GRATs shorter than 10 years in length. This requirement would build in some down-side risk to every GRAT, because it increases the likelihood that the grantor may die during the GRAT term. In addition, longer term market fluctuations could result in less overall appreciation for a longer-term GRAT than for a short-term rolling GRAT program.

The administration proposes that this change be effective as of the date of enactment.

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Proposals for Estate Tax Changes

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Disallowed Valuation Discounts

Clients with an active business or significant real estate or investment holdings often establish a family limited partnership or limited liability company (LLC). The family LLC is used to provide centralized control, ease of management, and creditor protection for assets contributed to the entity. In addition, it provides an easy mechanism for senior family members to gift partial interests in the family business or holdings to multiple descendants without risk that the donees will sell or gift their interests outside the family; thus, it protects the business or holdings from diminution through division at each generation. The benefits of such a structure include increased protection of family assets from the claims of potential creditors and spouses. Another benefit of the family LLC has been the availability of valuation discounts for gifted interests, which can mean substantial estate tax savings.

After its formation, the LLC becomes the owner of all assets contributed to the LLC. Non-managing membership interests in the LLC can be gifted directly to family members or to trusts for their benefit. The LLC operating agreement often includes provisions restricting future ownership of LLC interests by providing that LLC interests can be transferred only to current members, to descendants of current members, to trusts for the benefit of current members or their descendants, or to other family-owned entities. Thus, a child or grandchild generally cannot sell or otherwise dispose of any LLC interest he or she receives, and the interest is protected from creditors.

Because these interests are not readily saleable and because they are minority interests rather than controlling interests in the entity, LLC interests qualify under current law for significant valuation discounts for transfer tax purposes. The IRS has fought these valuation discounts in court many times. Judicial decisions have made this an uphill battle for the IRS and established a roadmap for taxpayers to design family entities in a way that makes valuation discounts available. Depending on the facts, discounts can range from 25% to 40% of the value of the interest transferred. In this way, senior family members are able to transfer family assets to one or more trusts for their descendants at a substantial discount for gift tax purposes.

In addition, the senior generation family members effectively remove the gifted LLC interests and any subsequent appreciation on those interests from their taxable estates. If they also transfer control of the LLC (i.e., the role of LLC manager) before death, the value of their estates' retained interests in the LLC are entitled under current law to similar significant lack of control and lack of marketability valuation discounts for estate tax purposes at death.

The administration's proposal would require that, in valuing transferred property for gift or estate tax purposes, certain restrictions created after October 9, 1990, that encumber the property must be disregarded. These include: restrictions on a member's ability to transfer his or her interest; restrictions on a transferee's ability to be admitted as a full partner or holder of an equity interest; or restrictions that will lapse after the transfer or that may be lifted after the transfer by agreement. The proposal would not preclude families from establishing a family LLC and would not undermine the many valuable non-tax benefits it provides, but it would reduce or eliminate the available valuation discounts for gifts of interests during life and for interests retained by the estate at death. Families who have non-tax motives for establishing a family LLC will still do so, but the technique will be less attractive for clients motivated primarily by the availability of valuation discounts.

The administration proposes that this change be effective for transfers made after the date of enactment.

Bottom Line

The administration's proposed changes to the use of GRATs and valuation discounts will significantly reduce the tax-saving potential currently afforded by these two techniques. Because the proposed changes would become effective upon enactment, estate planning incorporating a short-term GRAT or a transfer of family LLC interests should be done now while the opportunities are still available.

Hey Buddy, You Can't Park That Thing Here!

Mitchell Alkon

The County Council for Montgomery County, Maryland has amended the parking provisions of the County Code, effective July 1, 2009. The amendment makes it unlawful for a person to park a commercial vehicle, recreational vehicle or bus on a public roadway if either side of the street abuts a block containing a private residence, apartment house, church, school, hospital or playground. There are exceptions for when the vehicle is loading or unloading passengers, merchandise or materials, when a commercial vehicle is engaged in work on the block, for scheduled bus stops, or if a vehicle is parked involuntarily because of mechanical failure or other emergency. A recreational vehicle may not be parked for more than 12 hours. There are also restrictions on parking a "heavy" commercial vehicle, which includes a vehicle used for a commercial enterprise with a gross vehicle weight of more than 10,000 pounds.

What this means for the vindicated homeowner is that when he returns home at the end of the day, he will no longer have to squeeze by his neighbor's RV parked on the street or share parking spaces with the home improvement contractor vans that belong to the neighbor who runs a contracting business out of her home. What it also means is that the neighbor with the RV or home-based business will need to find other places to park and may incur parking fees in doing so.

Estate Planning & Administration Group attorney, **Oren Goldberg**, was sworn into the DC bar in April and will be admitted to the Maryland bar in June.

In April 2009, founding partner, **Al Pasternak** participated in a presentation at the Montgomery County Bar Association's Annual Meeting on the use of mediation to resolve disputes in probate and estates and trusts matters.

Client Alert: Marriage Equality Comes to the District of Columbia

Linda J. Ravdin

The D.C. City Council has passed a law that provides for recognition of a same-sex marriage that is valid where celebrated. The Mayor has signed the bill into law. Congress has a right to reject the law during a specified review period. What this law will mean -- when it becomes official -- is that a same-sex couple living in the District can travel to a state, or another country, such as Canada, where a same-sex marriage can be legally performed, get married, and return to live in the District. Their marriage will be recognized as valid in the District for all purposes under D.C. law. Similarly, a same-sex couple who got married in Vermont after same-sex marriage became legal there can move into the District and have their marriage recognized as valid. (The new D.C. law does not alter federal law that rejects same-sex marriage. So, for example, a same-sex couple with a valid D.C. marriage cannot file a joint federal income tax return.) It has been reported in the media that Councilman David Catania plans to introduce a bill later this year that provides for full marriage equality in the District, meaning that a same-sex couple will be able to have their marriage performed in the District. However, the new law comes very close to providing full marriage equality; any couple with the price of a bus ticket can go to New Haven, Connecticut, where same-sex marriage is legal, and enter into a marriage that will be recognized in the District of Columbia.

Couples who are considering getting married need to get their legal affairs in order. They should consider a premarital agreement and should update their estate planning documents. The law about marriage equality is in flux. Many states will not recognize a same-sex marriage although a small and growing number now do. If one spouse moves into a state that refuses recognition, such as Virginia, there can be significant problems in getting a divorce and determination of property and support. If a spouse moves into a state that does not recognize their marriage and dies, the survivor may not be able to claim his or her elective share rights as a surviving spouse. There are a host of legal questions that will arise and it will take years before the courts and legislatures provide answers. In the meantime, same-sex married couples need to develop their own legal documents to secure their marital rights and obligations.

Al Pasternak has been named Mediator of the Month by Creative Dispute Resolutions in their May 2009 E-Newsletter. CDR describes Al as "one of the leading trusts and estates attorneys in Maryland and DC for decades. Al is a founding partner of the well-respected law firm of Pasternak & Fidis in Bethesda, a fellow of the American College of Estate and Trust Counsel, a Maryland and DC Super Lawyer in Estate Planning and Probate, and a Certified Public Accountant as well. In addition to his law practice, Al serves as a mediator for probate matters (wills, trusts and estates) and tax and business planning disputes."

Changes Affecting Individuals in the American Recovery and Reinvestment Act

N. Alfred Pasternak

The American Recovery and Reinvestment Act of 2009, signed into law on February 17, 2009, contains a wide-ranging tax package that includes tax relief for low and moderate-income wage earners, individuals and families with college expenses, and home and car purchasers. This is an overview of the more widely applicable tax changes affecting individuals and families.

"Making Work Pay" credit. The new law provides an individual tax credit in the amount of 6.2% of earned income not to exceed $400 for single returns and $800 for joint returns in 2009 and 2010. The credit is phased out at adjusted gross income (AGI) in excess of $75,000 ($150,000 for married couples filling jointly). The credit can be claimed as a reduction in the amount of income tax that is withheld from a paycheck, or through a credit on the tax return.

Economic recovery payment. The new law provides for a one-time payment of $250 to retirees, disabled individuals and Social Security beneficiaries and SSI recipients receiving benefits from the Social Security Administration, and Railroad Retirement beneficiaries, and to veterans receiving disability compensation and pension benefits from the U.S. Department of Veteran's Affairs. The one-time payment is a reduction to any allowable Making Work Pay credit referred to above.

Refundable credit for certain federal and state pensioners. The new law provides a one-time refundable tax credit of $250 in 2009 to certain government retirees who are <u>not</u> eligible for Social Security benefits. This one-time credit is also a reduction to any allowable Making Work Pay credit.

Unemployment compensation exclusion. A provision temporarily suspends federal income tax on the first $2,400 of unemployment benefits received by a recipient in 2009.

Expanded child tax credit. In 2008, a taxpayer was eligible for a refundable credit equal to 15% of earned income in excess of $8,500. The new law increases the eligibility for the refundable child tax credit in 2009 and 2010 by lowering the earned income threshold to $3,000.

Expanded and revised higher education tax credit. The new law creates a $2,500 higher education tax credit that is available for the first four years of college. The credit is based on 100% of the first $2,000 of tuition and related expenses (including books) paid during the tax year and 25% of the next $2,000 of these expenses paid during the tax year. The maximum credit is $4,000. The credit begins to phase out for taxpayers with AGI in excess of $80,000 ($160,000 for married couples filing jointly). Forty percent of the credit is refundable. The new credit temporarily replaces the Hope Credit for 2009 and 2010.

Computers as an education expense. Computers, computer technology and internet access charges qualify as "qualified education expenses" in 529 education plans, providing these costs are incurred in 2009 and 2010 while the student is enrolled at an eligible educational institution.

Expanded credit for first-time home buyers. Last year, Congress gave first-time home buyers a refundable tax credit that was equivalent to an interest-free loan equal to 10% of the purchase of a home (up to $7,500). The provision applied to homes purchased between April 9, 2008 and July 1, 2009. Taxpayers receiving this tax credit were required to pay it back to the government over 15 years (earlier if the home was sold). The credit phases out for taxpayers with AGI in excess of $75,000 ($150,000 on a joint return) and is eliminated for taxpayers with AGI in excess of $95,000 ($170,000 on a joint return). The new law eliminates the repayment for taxpayers who purchase homes on or after January 1, 2009, but retains the recapture provision if the home is sold within 3 years of purchase. The new law also extends the credit through the end of November 2009, and increases the maximum value of the credit from $7,500 to $8,000.

Tax break for new car purchasers. The new law allows taxpayers to deduct state and local sales taxes paid on the purchase of a new automobile, light truck, SUV, motorcycle, or motor home between February 17, 2009 and December 31, 2009. The tax break phases out for taxpayers earning $125,000 per year ($250,000 for a joint return). The deduction is allowed to itemizers as well as non-itemizers. However, it cannot be taken by a taxpayer who elects to deduct state and local sales taxes in lieu of state and local income taxes.

Alternative minimum tax (AMT) patch. To hold the number of taxpayers subject to AMT at bay, the new law increases the AMT exemption amounts for 2009 to $46,700 for unmarried individuals, to $70,950 for a joint return, and to $35,475 for married individuals filing separate returns, and also allows personal credits, i.e., the dependent care credit and the elderly and disabled credit, to be applied against the AMT.

Qualified transportation fringe benefit increase. The monthly tax-free benefit for vanpooling or mass transit passes was increased from $120 to $230 per month and now matches the amount of tax-free benefit for qualified parking through December 2010. The figure will be adjusted thereafter for inflation.

Energy-efficient existing homes. The new law broadened the credit for energy efficient homes. For 2009 and 2010, taxpayers may claim a credit for 30 percent of the cost for materials to improve the energy efficiency of a principal residence, with a per-dwelling maximum credit for this period of $1,500. The credit will expire at the end of 2010.

Anne (Jan) White has been elected President-Elect of the District of Columbia Academy of Collaborative Professionals.

Linda Ravdin, a partner in the Divorce & Family Law Group, was a faculty member on a continuing legal education seminar entitled, "The Unmarried Couple: Rights and Responsibilities without the Marriage Certificate" on May 14, 2009 sponsored by the Maryland Institute for Continuing Professional Education of Lawyers (MICPEL). Her topic was domestic partnership agreements.

Linda Ravdin has become a Fellow of the Maryland Bar Foundation.

Preventing International Child Abduction

Faith D. Dornbrand

It started with an emergency call from the U.S Department of State. They needed an attorney to help a French woman. The United States had recently adopted a treaty, the Hague Convention on the Civil Aspects of International Child Abduction. Under the treaty, the United States has an obligation to make legal counsel available to citizens of other signatory countries whose children have been abducted to the United States. I agreed to take the case.

The French mother, my client, had not seen her two daughters for about three years since her ex-husband had vanished with them. After years of searching, she located the kidnapping dad in Washington D.C. I filed emergency papers and had her ex-husband detained and brought to D.C. Superior Court for a preliminary hearing. Eventually, my French client, a woman who had never left her country, who spoke no English, and who had never even been on an airplane, flew to the United States to be reunited with her two girls in my offices. Every year until those girls were independent adults, I received annual holiday cards from my client thanking me for my efforts and advising me of the girls' activities and achievements. It was one of the most satisfying cases of my legal career.

The Hague Convention on the Civil Aspects of International Child Abduction is a treaty that provides legal remedies for parents whose children are taken overseas to a country that has adopted the treaty. The goal of this treaty is to provide a swift process for returning children when they are kept in a foreign country beyond the duration of scheduled time there, or when they are abducted to a foreign country. The remedy provided is simple. The children are supposed to be returned to the country of "habitual residence" for custody related proceedings there. The country of habitual residence is the country in which the children had been living for the last six months prior to the abduction, or prior to the permitted travel that was unilaterally extended.

The remedy provided by the treaty is imperfect. First, it only applies between nations who have adopted it, and many countries have not. In a recent custody case I litigated, an important fact to prove was that none of the countries of the Middle East (except Turkey) have adopted the treaty.

A second limit is that some countries that have adopted the treaty do not reliably enforce it. The problem countries are not always predictable. For example, in another of my cases, I learned (and prepared to establish in court) that Germany has had a decidedly spotty history of applying and enforcing the Hague Convention. Surprisingly, Mexico is another country with a dismal compliance record. The State Department monitors the actual implementation of the Hague Convention in various nations and reports periodically on experiences with specific countries. (The compliance reports are currently available online at the State Department website (http://travel.state.gov/family) under Children and Families, in the section for Attorneys and Judges.)

A third limit is that there are a few defenses that can be invoked by the abducting parent to prevent or delay the return of the children to their country of habitual residence. For example, a court need not issue a return order if the children might be harmed in the country of habitual residence. In the last few years, there has been an explosion of cases in U.S. courts over international child abduction claims, many of which involve a parent trying to establish that his or her situation falls within one of the exceptions.

What can a parent do to protect a child whose home is in the United States from removal to a foreign country or detention in a foreign country? A parent can seek a number of protections. Unfortunately, none of the protections are fail-safe. Some of the protective measures suggested below might be imposed by a court. Others, depending on the jurisdiction, might only be available by agreement.

For example, a parent residing in the United States should obtain a clear court order, if possible, or at least a clear written agreement specifying custodial and access rights. When the non-custodial parent has ties to or citizenship in another country, it is also useful to specify that the United States shall be considered the "habitual residence" of the child.

A U.S.-based parent should try to obtain sole custody, as opposed to joint custody, of the child. Then U.S. and foreign authorities will understand that the non-custodial parent cannot make decisions about where the child should travel, go to school, etc. However, obtaining sole custody may be particularly difficult in a jurisdiction like D.C., which has a statutory preference for joint custody.

Foreign travel will occur in many cases. For example, children might travel abroad to visit the other parent living overseas. A non-custodial parent might travel together with the children to a foreign country to visit relatives overseas. Specific return dates should be set forth in writing, whenever overseas travel is permitted or ordered. This will make it clear to authorities if a withholding beyond the permitted travel time has occurred.

A stay-behind parent can try to require a traveling parent to post a bond or specified monies until he or she returns the children. This provides a financial disincentive to the traveling parent to abduct the children. It also can give the left-behind parent funds to pursue a legal remedy, in the event of an abduction or unlawful retention of the children.

A parent can try to have the other parent's visitation with the children limited to

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On June 2, 2009, Estate Planning & Administration partners, **Anne Coventry** and **Marcia Fidis** presented a workshop on the estate planning process and the steps to accomplish estate planning objectives. This program was part of the 2009 Elder Law Series sponsored by Montgomery County Cooperative Extension.

Divorce & Family Law partner, **Vicki Viramontes-LaFre**e gave a presentation on military retirement benefits for the Family Law Section of the Frederick County, Maryland Bar Association on March 16, 2009. The presentation was entitled, "The Military Family Divorce: Hot Tips Every Attorney Should Know in Navigating Military Retirement and Family Law."

Challenging the Validity of a Will in Maryland, Virginia and the District of Columbia

Jeremy Rachlin

Suppose that an elderly aunt who had no children but was close to her nieces and nephews recently passed away and you find that she left her estate to your sibling with whom she lived during the last few months of her life, to the exclusion of you and your other siblings. Or, suppose that you cared for your aunt in the final months of her life and are shocked to find out, after her death, that she left most of her estate to you. Emotions will run high on either side. If you are the one who has been cut out of the estate, is there a way for you to challenge the Will? If you are the one who benefits from the Will, you're probably on edge that your siblings will challenge the Will and are worried about how you will defend yourself.

The person who files a lawsuit to set aside a Will -- the challenger -- is known as the petitioner and the lawsuit is known as a caveat proceeding. The person defending the validity of the Will is the respondent. Pasternak & Fidis attorneys have had extensive experience in such caveat proceedings, representing both petitioners and respondents.

The two most common means for a petitioner to attack a Will are:

- a claim that the testator **lacked capacity** at the time he or she signed the Will;
- a claim that the Will was obtained by the exercise of **undue influence** on the testator by the recipient of the gift.

Often, petitioners will allege both lack of capacity and undue influence in seeking to throw out a Will.

Lack of Capacity

For a person executing a Will (the Testator) to have sufficient capacity at the time she executes the Will, she must be of clear and sound mind, and have knowledge as to:

- what she is doing (*i.e.,* she knows she is executing a Will);
- what property she is distributing;
- to whom she is distributing the property; and
- her relationship to those to whom she is distributing the property.

The legal standard for mental capacity of a testator is quite similar under the law of Maryland, the District of Columbia, and Virginia.

In Maryland, the Court of Appeals has stated that a testator had capacity if "he had a full understanding of the nature of the business in which he was engaged; a recollection of the property of which he intended to dispose and the persons to whom he meant to give it, and the relative claims of the different persons who were or should have been the objects of his bounty." *Webster v. Larmore,* 268 Md. 153 (1973). In the District of Columbia, if the testator had "sufficient strength and clearness of mind and memory, to know, in general, without prompting, the nature and extent of the property of which he is about to dispose, and nature of the act which he is about to perform, and the names and identity of the persons who are to be the objects of his bounty, and his relation towards them," he had sufficient capacity. *In Re: Estate of Weir,* 475 F.2d 988 (1973).

There have been a number of appeals court cases that provide guidance as to when a testator might lack capacity. For example, if a testator leaves property to someone who is dead at the time the testator makes the Will, capacity may be at issue. *Lyon v. Townsend,* 124 Md. 163 (1914). Where the testator suffers from senile dementia at the time of the Will and is no longer able to make intelligent choices or take intelligent action, capacity may be at issue. *Wall v. Heller,* 61 Md. App. 314 (1985). However, if a testator is in the early stages of dementia when she signs a Will, even if she does not have the same level of intelligence she once had, so long as she meets the general criteria set forth above, a court may find the testator had sufficient capacity to make a Will. *Fields v. Fields,* 499 S.E. 2d 826 (Va. 1998).

Undue Influence

Undue influence in making a Will means it was executed under circumstances equivalent to fraud or coercion. In other words, the decisions reflected in the Will are not truly the wishes or judgment of the testator, but rather, the wishes or judgment of a beneficiary who was able to exert control over the testator. It is important to note that a testator may be influenced by others in deciding to distribute his property in a certain manner. After all, most of us rely on those close to us and consider their advice and input when making significant decisions in our lives. A court will only set aside a Will if it is convinced that such influence is "undue." There is no bright-line rule to determine whether a Will is the result of undue influence. Rather, courts examine the particular facts and circumstances of each case.

In Maryland, the judge must consider the following questions to determine whether a Will was the product of undue influence:

- Was there a relationship of trust and confidence between the testator and the beneficiary?
- Was the testator highly susceptible to influence at or around the time he executed the Will?
- Does the Will contain a substantial benefit to the beneficiary?
- To what extent did the beneficiary either cause or assist the testator to execute the Will?
- Did the beneficiary have the opportunity to exert influence over the testator?
- Is property distributed in an unusual way (*i.e.*, does the beneficiary take significantly more property than someone who has a closer or equally close relationship to the testator)?
- To what degree does this Will make changes in how the testator distributed property in a prior Will?

The answers to all seven of these questions need not be "yes" to prove undue influence. Maryland courts do seem to put more emphasis on the first two questions. For example, in one case, a mother lived with her daughter at the time she executed her Will, the daughter contacted an attorney on behalf of her mother to prepare the Will, and the daughter benefited from the Will while the son was completely cut out of the Will. But because the son could not show a relationship of trust and confidence or that the mother was highly susceptible to influence, he was unsuccessful in throwing out the Will. *See Orwick v. Moldawer*, 822 A.2d 506 (Md. Ct. Spec. App. 2003).

In Virginia, each of the following questions must be answered "yes" for a court to consider throwing out a Will for undue influence:

- Was the testator "enfeebled in mind" at the time she executed the Will?
- Did someone whom the testator held in trust and confidence, and who was a beneficiary of the Will, assist the testator in preparing the Will?
- Did the testator previously express a desire to distribute property in a manner different from how she bequeathed her property in the current Will?

For example, one daughter served as her mother's guardian, and the mother's newly-executed Will distributed more property to this daughter than she was to have received under a prior Will. The other daughters were unsuccessful in throwing out the Will on the ground of undue influence because the mother met independently with the attorney who drafted the Will and expressed her own desires for how to distribute property in the Will, without her daughter present. *See Jarvis v. Tonkin*, 380 S.E. 2d 900 (Va. 1989).

Concluding Thoughts

A disappointed heir who may wish to petition the court to throw out a Will for lack of capacity or undue influence should keep in mind that the petitioner in such an action always has an uphill battle – the law presumes that a Will is executed by someone of sufficient capacity and has not been procured as a result of undue influence. A decision to challenge a Will can be financially and emotionally costly.

Nevertheless, some challenges do have real merit. A particularly poignant case where a challenge to a Will and pre-death gifts succeeded is reported in the May 18, 2009 edition of *Virginia Lawyers Weekly*. A man who was seriously mentally disabled—with diagnoses of post-traumatic stress disorder, bipolar disorder, and psychosis—gave large gifts to a cleaning woman who moved in with him, and may have left a Will (possibly a forgery) leaving what remained of his estate to her to the exclusion of his three daughters. The jury found for the family and against the cleaning woman on the grounds of undue influence and lack of capacity. Anyone considering a challenge to a Will should proceed with caution and only with experienced legal advice.

In May 2009, Divorce and Family Law Partner **Anne (Jan) White** taught a 3-day course in Collaborative Law sponsored by the Maryland Institute for Continuing Professional Education of Lawyers (MICPEL) in Columbia, Maryland.

Client Alert: Maryland Inheritance Tax Exemption for Domestic Partners

Oren Goldberg

On May 19, Maryland Governor Martin O'Malley signed into law Senate Bill 785. The new law provides domestic partners a limited exemption from the Maryland inheritance tax. Maryland currently imposes a 10% inheritance tax on certain recipients of testamentary gifts but exempts most family members. The new law expands the exemption to include domestic partners, but only applies to an interest in a joint primary residence. For the exemption to apply, the residence must be held in joint tenancy by the decedent and the domestic partner. Therefore, it is important to ensure that the deed to the residence specifies that the partners own the residence as joint tenants and not as tenants in common.

The law applies to both same-sex and opposite-sex domestic partners and will be applicable to decedents dying after July 1, 2009. If you believe you may be affected by this bill or have any questions regarding your estate planning or the Maryland inheritance tax, please give us a call.

Nancy Fax will be speaking at a Skills Training for Estate Planners CLE program sponsored by the ABA, Section of Real Property, Probate and Estate Law at New York Law School in New York City on July 14, 2009.

Client Alert: FDIC Deposit Insurance Limits Extended

On May 20, 2009, the FDIC announced that the $ 250,000 per-depositor coverage limitations have been extended beyond the original December 31, 2009 expiration date to a new December 31, 2013 expiration date. On January 1, 2014, the standard insurance amount will return to $ 100,000 per depositor for all account categories except for IRAs and certain other retirement accounts which will remain at $ 250,000 per depositor.

On June 2, 2009 Managing Partner **Nancy Fax** spoke at a program sponsored by the DC Bar, Estates, Trusts and Probate Law Section on the status of future enactment of the Uniform Trust Code in Maryland.

Preventing International Child Abduction

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the U.S. by court order or agreement. The non-custodial parent's passports and/or the children's passports (including, for dual-national children, both their American and their foreign passports) can be escrowed or held by the custodial parent during the other parent's access periods.

Excellent and readily accessible materials on preventing abduction and securing remedies are available online. Both the U.S. Department of State (http://travel.state.gov) and the National Center for Missing and Exploited Children (http://www.missingkids.com) have extensive materials on their websites about international child abduction prevention and remedies. Any parent concerned about a possible international child abduction should spend some time studying these useful and free online materials even prior to consulting an attorney for advice about their specific situation.

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