UPDATE
Kessler Orlean Silver
& Company, P.C.
CERTIFIED PUBLIC ACCOUNTANTS
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# Joint Ownership: Is It Right for You?

Although joint ownership is often the best way to own property, it is not the only way. It is important to consider other estate-planning aspects.

## KEY POINT

There are several forms of joint ownership. For example, suppose you and a sibling each own an undivided one-half interest in a home. You are considered to be "tenants in common" with each party owning a one-half interest. If you die first, the property is bequeathed to whomever you choose. In contrast, property owned by "joint tenants" with a right of survivorship automatically passes to the survivor when the other owner dies.

## PROS AND CONS

Joint tenancies have both advantages and disadvantages. On the plus side, property held in joint tenancy may be transferred smoothly to the survivor. The probate process is avoided, and the survivor generally receives the property without delay. In addition, estate administration expenses may be reduced.

For instance, an elderly person may decide to place funds in a joint account with an adult child. The child can make withdrawals for the parent when sickness or other conditions affect the parent's ability to function.

However, joint ownership may also have adverse effects. For instance, if you own property jointly with a relative, it may be subject to your relative's creditors.

If you own property with your spouse as joint tenants with rights of survivorship, one half of its value is presumed to be included in the estate of the first to die—no matter who paid for it. Initially, the property is exempt from federal estate tax under the unlimited marital deduction. When the survivor dies, however, the entire value of the property is included in his or her estate.

## EXAMPLES

Clyde buys a $400,000 residence and names himself and his spouse, Bonnie, as joint tenants. When Clyde dies, the house is worth $600,000. Although the $300,000 is included in his gross estate, it is sheltered by the marital deduction. Bonnie dies three years later when the home is worth $650,000. The full $650,000 is included in her gross estate (but all or part may be sheltered from federal tax by the federal estate-tax exemption).

For nonspousal joint tenancies, the full value of the property is included in the taxable estate of the first one to die. If the survivor contributed toward the purchase of the property, that amount

is reduced proportionately. In any event, the full value not included in the estate of the first tenant to die is included in the survivor's estate.

Thelma buys a home and names her granddaughter, Louise, as a joint owner. Assuming Thelma dies before Louise when the home is worth $500,000, the entire $500,000 is included in Thelma's estate. But if Louise had paid half of the purchase price, only $250,000 would be included in Thelma's estate. Similarly, if joint tenants receive property as a gift or inheritance, only a proportionate interest is included in the estate of the first tenant to die.

Of course, estate planning must also take state law into account, particularly in those states where community property laws apply.

# Results of KOS Client Survey

Our firm's goal is to provide you with high quality products and to exceed your service expectations in the process. In order to fulfill our commitment to you and because continuous improvement is important to us, we hired an independent company to conduct a "Survey of Operations" this past summer. We sent this survey to approximately 300 randomly-selected clients asking for candid feedback on our performance.

We learned that there are some things we are doing very well – and some things we could be doing better. As a result of the survey, some of the areas we are actively working to improve are:

- Becoming more proactive in giving you the sound advice you want from your accounting and tax professionals
- Improving internal processes and managing your expectations to more consistently deliver our work on time
- Working more closely with clients to advise about ways to improve operations or enhance profitability

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# What Are Your Mortgage Options?

With mortgage rates remaining on the relatively low side throughout most of the country, and with sub-prime mortgages in the news, you may be looking to take out a new mortgage or refinance an existing one. If so, it can be a bewildering process.

Now, more than ever, there is a wide variety of creative techniques available to homeowners. For example, you may be able to choose from fixed or adjustable rate mortgages, or "hybrids" that combine the elements of each one. The following are some of the financing options that may be available in the current environment:

### THIRTY-YEAR FIXED MORTGAGE

Despite all the new financing ideas on the market, the tried-and-true 30-year fixed mortgage remains a staple. Main reason: Homebuyers like the certainty of knowing what their payments will be over the long term.

### FIFTEEN-YEAR MORTGAGE

There is a noticeable trend toward a shorter fixed-term. In particular, 15-year mortgages have proved popular with some homeowners, especially those who are middle-aged. These loans enable the borrowers to pay off their debts before retirement. Alternatively, a homeowner can pre-pay a fixed-term loan and shorten the payment time accordingly.

### ADJUSTABLE RATE MORTGAGE

Adjustable rate mortgages (ARMs) have been around for years. As the name suggests, the interest rate is adjusted on a regular basis (e.g., annually). The purpose of this type of program is to allow mortgage interest rates to fluctuate with market conditions. It was recently reported that about 20% of homeowners choose ARMs.

### HYBRIDS

Loans that help homebuyers afford higher priced homes have increased in demand. One such option is the fixed-adjustable mortgage. These loans, sometimes called 3/1, 5/1, 7/1 or 10/1 loans, have a fixed rate for three, five, seven or ten years and then adjust annually after that.

### GOVERNMENT LOANS

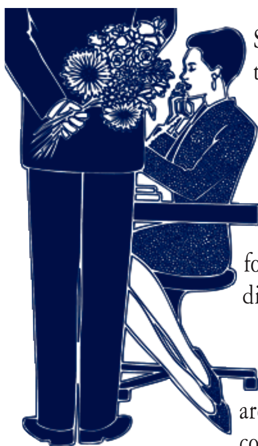
For individuals who have trouble qualifying for conventional loans, a government-backed loan may be an option. Programs under the Federal Housing Authority or Veterans Administration may enable you to obtain financing from lenders at reasonable rates.

### NICHE LOANS

Environmentally conscious individuals may benefit from loans designed specifically for homes that meet certain energy-efficient standards. Similarly, "green" loan products might be available to homeowners who are near public transportation. Such loans allow lenders to stretch credit ratios, thereby enabling the borrower to buy "more house" than he or she normally could.

Explore all of the options at your disposal.
Do the necessary homework before you choose a particular type of loan.

# Monitoring Outside Conduct of Employees



Suppose you find out that one of your company's top salespeople is secretly dating an executive who works for your main competitor. Could it be grounds for disciplinary action or discharge?

Federal law is not entirely clear in this area. Such an action could trigger a lawsuit based on discrimination or invasion of privacy. As a rule of thumb, employers have more leeway to regulate off-duty conduct of workers when the activities are illegal, especially if it specifically relates to the job. Otherwise, it is a slippery slope to navigate.

In addition, many states have enacted laws that prevent employers from discriminating against employees who participate illegal activities when they are outside the workplace—despite the fact that those actions may prove to be detrimental to the company.

Even in states that do not provide a statutory right to privacy, it is generally illegal for an employer to unreasonably intrude on an employee's "seclusion". This refers to the physical areas where an employee has a reasonable expectation of privacy. Significantly, an employer cannot physically enter an employee's home without consent.

### EXAMPLES:

The following are several key instances involving off-duty conduct:

As a general rule, drug testing is permitted in the course of a job application if the employee performs work that is security-sensitive or if the employee has given the employer cause to believe that he or she is impaired by drugs at work.

An employee's religious beliefs (and activities relating to those beliefs) are generally protected by both federal and state laws. However, if an employee exhibits unreasonable behavior in the workplace – for example, attempting to convert other employees – he or she may be subject to discipline.

There is no strict legal prohibition against moonlighting. However, an employer is able to restrict after-hours work that is in conflict with its business. As a result, if an employee begins working for a direct competitor, it may be just cause for discipline or discharge.

Generally, employers cannot discriminate on the basis of marital status or monitor such status, except for its need to regulate employee benefits such as health insurance. But the legal boundaries can become blurry when one spouse applies for a job where his or her spouse is a supervisor or, even more tenuous, if the spouse works for the competition.

It is questionable whether an employer may discipline or discharge employees who have been arrested for driving while intoxicated or for the commission of a crime. State law often offers legal protection to the employee. Generally, employers may investigate further only if the conduct will have a direct impact on the business.

Clearly, each case must be analyzed on its own merits. You can rely on your business adviser for guidance.

# TIPS, TRAPS AND TRENDS

### ESTATE PLANNING FOR YOUNG ADULTS

Many of you have children who are over 18. They may or may not be in college. Estate planning for these young adults is never too early. Many attorneys recommend to all estate planning clients that have children aged 18 or older to sign four documents.

Power of Attorney for Healthcare – this document allows you to designate someone to have legal authority to grant or rescind permission for any kind of medical treatment on your behalf. The power of attorney can be very specific as to what type of treatment your agent may approve or refuse, or it can rely on your agent's discretion. Such a power is revocable and amendable at any time.

Power of Attorney for Property – this document grants various powers to your designated agent in order to deal with your business, property or financial affairs.

Living Will – this is a statement of your preferences about medical care in the event of a terminal illness. Also known as a healthcare declaration, it describes how far you want your physicians to go in providing care when death would otherwise be imminent. It also provides for carrying out your wishes about relief from pain. Unlike the healthcare power of attorney, which is in effect anytime you cannot express your own wishes, a living will applies only in a terminal illness.

HIPAA Authorization (grants HIPAA rights to agents, trustees, guardians, attorneys, etc.)

There are many opinions that even though the State's healthcare surrogate statute does provide for appointment of healthcare agents if no documents are present, that route has serious shortcomings and does not go far enough with respect to the life-critical decisions that could come in to play.
We would remind you that these documents are generally recommended for everyone. However, most people forget to consider the need for these documents for adult children and college students.

### ARE LONG-TERM INSURANCE PREMIUMS TAX DEDUCTIBLE?

Long-term care premiums are deductible up to certain amounts as itemized medical expense deductions. The amount is based upon your age. Unfortunately, most taxpayers do not have enough other medical expense deductions to exceed the non-deductible portion equal to the first 7½ percent of adjusted gross income (10 percent if you are subject to alternative minimum tax (AMT)). Furthermore, more taxpayers now take the standard deduction rather than itemize, making even those medical expenses useless as a tax deduction.

A tax bill has been before Congress for several years now to allow long-term care premiums to be deductible "above the line," that is, by anyone irrespective of whether you itemize. The impetus behind this recommendation is that encouraging individuals to fund their own eventual eldercare is preferable to having federal Medicare payments do so. So far, however, Congress has not brought the matter to a vote. Some state income tax laws already allow such an above-the-line deduction.

Long-term care insurance premiums are deductible in figuring itemized medical expense deductions up to the following amounts:

- Age 40 or younger: $290 in 2007; $310 in 2008;
- Over 40 but not older than 50: $550 in 2007; $580 in 2008
- Over 50 but not older than 60: $1,110 in 2007; $1,150 in 2008
- Over 60 but not older than 70: $2,950 in 2007; $3,080 in 2008; and
- Over 70: $3,680 in 2007; $3,850 in 2008.

## Results of KOS Client Survey

*(continued from page 1)*

We appreciate learning from you how we can improve. In addition, we are pleased and honored that over 95% of respondents agreed or strongly agreed with the following statements:

- Overall quality of work consistently meets or exceeds expectations
- KOS representatives consistently demonstrate a "we'll find a way" service attitude
- We return our phone call or emails in a timely manner
- You could enthusiastically recommend KOS to others

Thanks to everyone who took the time to complete the survey. For those who did not receive one, we want you to know your opinion is important to us. Thus if there is ever an issue you would like to discuss please feel free to call the engagement manager or myself.

Very Truly Yours,
Jeffrey Arnol, Managing Partner

# BRIEFS

### NOISE IMPACT

Generally, you must have owned and used a home as your principal residence for two out of the past five years to qualify for the home-sale exclusion. A taxpayer who bought a home near an airport did not know about the excessive noise from low-flying aircraft. Furthermore, the seller violated local law by failing to inform the buyer that the home was located in the noise impact zone. The IRS permitted a partial home-sale exclusion.

### MANAGEMENT STYLE

How can you become a better business manager? One intriguing idea is to write a job description for yourself. Pretend that your boss will be checking the description every day. Which points would you emphasize? What qualities should you possess? For instance, you might want to become more tolerant of employee mistakes or parcel out work more judiciously. Keep the job description handy as a reminder of what kind of supervisor you should be.

# NEWS *from* KOS

**Jeffrey Arnol** was elected to the Board of Directors of CPAAI for a two-year term beginning in October. CPAAI is the international CPA association to which we belong. And congratulations to **Amanda Pictor** upon successfully completing the CPA exam.

In our ever-changing profession, it is necessary to attend educational sessions to stay abreast of all the new rules and laws for both auditing and tax. A significant number of members from our firm attended a Risk Assessment Auditing Standards seminar in early September. These new risk assessments will significantly impact how we conduct our audits in the future. **Alex Pekler**, **Annie Giorgi, Jeff Floom, Scott Elesh** and **Valerie Anderson-Jones** attended the ILCPAS Employee Benefits Conference in May. **Larry Krupp** and **Valerie** attended the ILCPAS Not-for-Profit Update in June. **Diana Angulo** and **Alex** attended a tax seminar on S Corporations and Partnerships presented by CPAAI. **Alan Kalfen, Geoff Harlow** and **Ben Darcy** attended the 50th Annual CPAAI Conference in New York in October. The topics covered were on tax, accounting and practice management. **Steve Kessler** attended the AICPA Peer Review Conference in September.

**Valerie Anderson-Jones** is now a member of the Northwest Suburban Estate Planning Council.

**Sandy Alper** has a new addition to his extended family. His daughter Dayna gave birth to her second child, Zackary Logan, in August.

**Beverly Fisher's** daughter and **Alan Kalfen's** sister Lori announced her engagement to Eric Meloy. The wedding is planned for November 2008.

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If you have any questions or comments about articles featured in this issue or about the newsletter in general, please call one of the principals at Kessler Orlean Silver & Company, or the Update editors, Jeffrey Arnol or Jeffrey Butler.

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If so, please call Lynn Steer in our office and we will be glad to add their name to our mailing list.
If you need to update your e-mail address, please send it to **info@koscpa.com**.

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