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A Q&A on Planning Your
Family Estate p.14

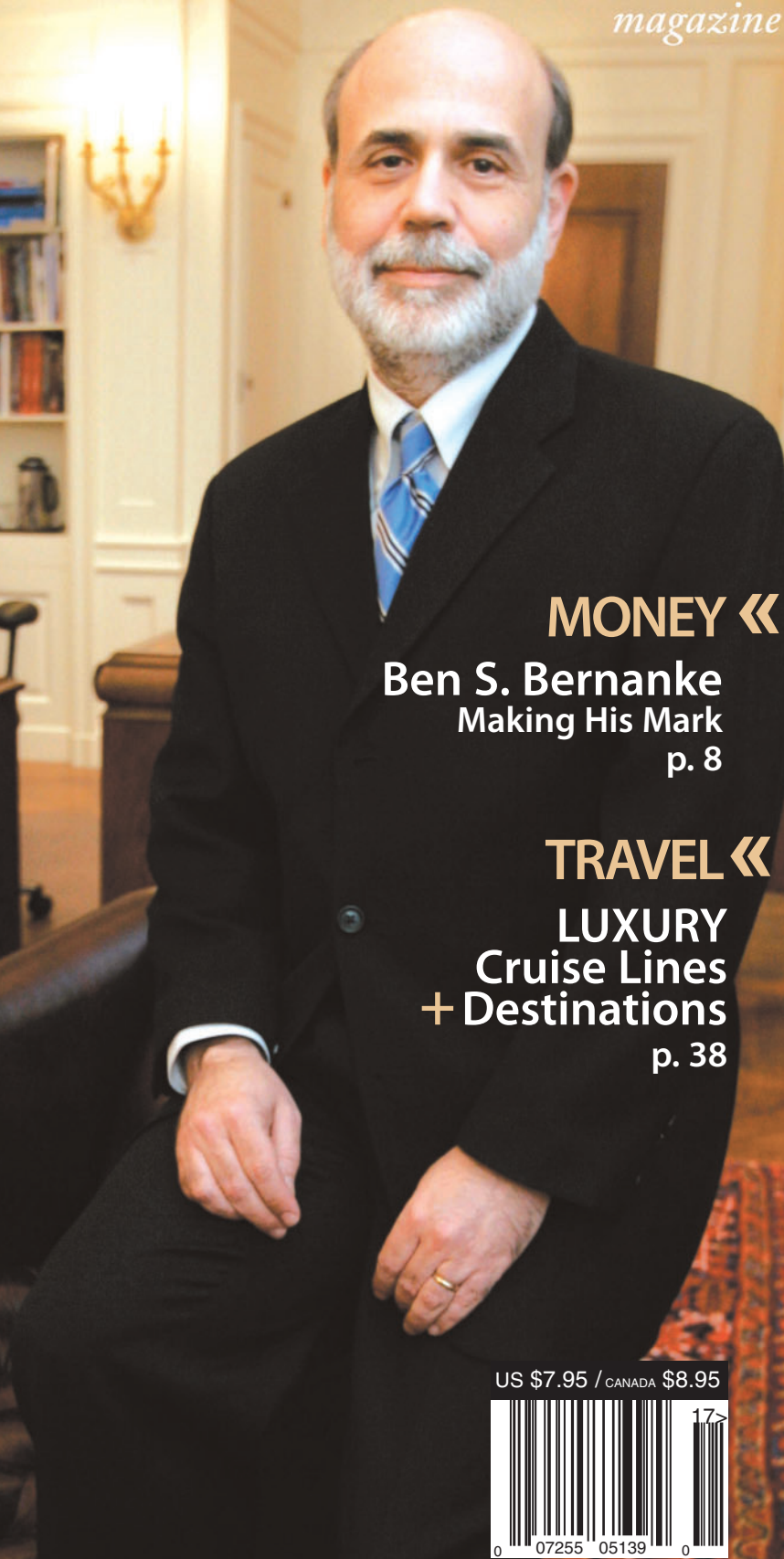


Rebecca S. Gaylor, CFP®, CFS

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O&A Estate Planning

with Rebecca S. Gaylor, CFP®, CFS

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In the past few years, there have been many changes made to estate taxes, capital gains taxes, and income taxes. All of these tax law changes can affect the assets in your estate. Also, many of these changes are not permanent, so planning for the orderly transfer of assets is more important, and more complicated, than ever. We spoke with Rebecca Gaylor, CFP®, CFS to gain insight on these changes and their effects.

Financial Playbook (FP): Why is it more important than ever before to have an estate plan? Didn't the recent law changes take care of the need to plan?

Rebecca Gaylor (RG): Actually, the new laws have made estate planning more critical than ever before. There is no guarantee that the elimination of estate taxes is permanent. The changes are set to expire at the end of 2010. Also, many states still have death or estate taxes. Many estates are not liquid—they include assets such as business interests, real estate, property in other states, and so forth. These illiquid assets can quickly lose value if there is no plan to distribute them to the desired heirs, and no cash available to cover the ongoing costs of running the business or managing the real estate while the estate is settled.

FP: How does one go about making an estate plan, especially considering the potential for reversion to the old estate tax laws and schedules a few years from now?

RG: When I sit down with a client, I look at many things. The need for cash at time of death to allow business interests to continue operating; the possibility of leaving money to charity; needs of disabled heirs; trusts for spendthrift heirs; equitable distribution of assets; how retirement plan and insurance beneficiaries have been designated; and much more.

FP: You mentioned some interesting things. Can you elaborate on the impact the tax law changes may have on estate planning?

RG: There is a great temptation to skip any planning now. Many people have the mistaken impression that there will not be any taxes on their assets when they die. They couldn't be more wrong. Unless a person dies in 2010, there will almost certainly be estate taxes to consider. In addition, there are still capital gains taxes on many non-retirement assets, income taxes on income earned in the year of death, and more. Even more important, as a person ages, life insurance becomes more expensive (if it can be bought at all), and insurance is one of the key tools for ensuring estate liquidity and equitable asset distribution. Insurance also provides the heirs the ability to pay taxes while assets are in probate, is used to make gifts to charity, and is used to fund many trusts.

FP: You mentioned trusts. What role do trusts play in estate planning?

RG: There are many kinds of trusts that play an important part in estate planning. One of the simplest and most often overlooked is the revocable living trust, the foundation to an estate plan. Another is the charitable giving trust (CRT). Yet another is the irrevocable life insurance trust (ILIT). Finally, there are more sophisticated trusts such as generation-skipping trusts (GST), grantor-retained annuity trusts (GRAT), and others. I work with the client's attorneys and CRT tax advisors to help put the right estate plan and trusts in place.

FP: Tell us some more about some of these trusts. What about the living trust?

RG: A living trust is a way to preserve the maximum estate tax deduction (or as we like to call it, "use each person's coupon") and ease the hassles that can be associated with probate. Even though estate taxes are less of a current issue, the problem is not gone. Living trusts also avoid many probate issues, including situations where there is property in another state.

FP: You mentioned the ILIT. Where does that fit into an estate plan?

RG: Many people have estates that consist of illiquid assets, such as a business interest or real estate, or they want to leave the bulk of an asset to one child

and that shortchanges the other(s). Or they may want to leave most of their assets to charity and replace those assets with cash for their heirs. Buying a life insurance policy and placing it in an ILIT, while following all the processes related to proper gifting and CRUMMY funding, ensures the money is there and that it is free from income, estate, and any other taxes. The business can continue to function, the real estate can be sold at


leisure, the shortchanged heirs get a fair shake, and the charity gets its money. Again, this is a rather complicated but productive planning tool I discuss with my clients.

FP: What about the person who wants to leave a gift to their college, a charity, or a foundation? What type of estate planning should they consider?

RG: There are several ways to give money or assets to a charitable or educational organization and still get the benefits of the asset—plus a big current income tax deduction.

The two main choices are both trusts: the charitable remainder annuity trust (CRAT) and the charitable remainder unit trust (CRUT). The details are best discussed in a face-to-face meeting, but each trust allows the person who set it up to draw income for a set period, or even for the remainder of his or her lifetime. When the person who set up the trust dies, the assets go to the named charity. In the meanwhile, a huge tax deduction is generated. The money that goes to the charity can even be replaced by purchasing a life insurance policy and putting it in an ILIT.

FP: It sounds like estate planning is a worthwhile and complex issue, and every client's situation is unique.

RG: That's true—there's no time like the present to plan. Estate planning, tax, and legal issues are complicated, so I like to meet regularly with my clients to develop and keep updated the best plan for their situation...to avoid an "accident report" later in their lives. 

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