



# BARRIS, SOTT, DENN & DRIKER, PLLC

## ESTATE & FINANCIAL PLANNING INSIGHTS

SPECIAL EDITION

FEBRUARY 2010

### Making Order Out of Chaos: Riding the Waves of Estate Tax Repeal

The principal purpose of this Special Report is to alert you to major changes in the Federal tax law which went into effect in 2010 that could dramatically affect your estate plan. Though not all estate plans will be affected, you should determine if changes are required in your plan to avoid unexpected results.

We will first discuss the law prior to and after the changes, then provide specific examples of areas of concern. We will show you why it is critical to review your plan to assure it will still work as you expect.

After that, we will highlight points everyone should remember in planning an estate; alert you to some tax saving opportunities in this terrible real estate market; and briefly touch on rollovers to Roth IRAs, which have gained attention this year.

#### The Law Before the 2010 Changes

In 2009, the federal estate and generation-skipping transfer (“GST”) tax exemptions were \$3.5 million per person, and the estate and GST tax rates were 45%. Thus, an individual could die with a \$3.5 million estate and there would be no federal estate tax. A married couple with properly planned estates could pass \$7 million free of estate tax.

There was also a \$1 million gift tax exemption, which was applied against the estate tax exemption. Thus if you made \$1 million of lifetime taxable gifts, you would have only \$2.5 million of estate tax exemption on death.

Further, prior to 2010 inherited assets received a “stepped up” basis for income tax purposes. So if someone inherited property acquired by a decedent years ago which had grown in value by the time of death, and it was sold for the date of death value by the person inheriting it, there was no gain subject to capital gains tax.

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*Information in this Newsletter does not constitute legal advice and should not be relied on for your own estate planning. Discuss your estate planning with your attorney, as estate planning advice must be tailored for each specific situation.*

## Changes Effective in 2010

In 2001, Congress passed changes to the federal estate, GST and gift tax rules that were to take effect in 2010. The estate tax and GST were repealed. The gift tax remains in effect, with the same \$1 million exemption, but the rate is reduced to 35%.

The old rules regarding step-up in basis are significantly modified: Assets received from a decedent dying in 2010 take a carryover basis – the same basis as the decedent had in the assets – rather than the estate tax value, but subject to a couple of important adjustments:

The “Executor” can allocate \$1.3 million (and possibly additional amounts) to step up the basis of assets passing to any beneficiary on the decedent’s death. The Executor can adjust upwards property which passes to the surviving spouse which constitutes Qualified Spousal Property. The maximum adjustment for Qualified Spousal Property is \$3 million.

These changes will affect far more estates than were affected by repeal of the estate tax. It is estimated that an extension of the 2009 estate tax rules would have resulted in estate tax being imposed on approximately 6,000 estates, while carryover basis will result in taxes on more than 70,000 estates.

## Changes Scheduled for 2011

The 2001 law repealed the estate tax and GST for one year only, 2010. If Congress does not change the law, in 2011 there will be more changes: The estate tax will be restored with a top rate of 55%, a 5% surtax on certain estates over \$10 million, and only a \$1 million estate tax exemption. The GST will also be restored with a 55% rate and a \$1 million GST exemption. The maximum gift tax rate will be increased to 55%. The step-up in basis rules will return, and carryover basis will be repealed.

The above is just a summary of some of the major changes. There are other more technical changes in effect in 2010 and yet others which would go into effect in 2011.

## How Did We Get Into This Mess?

Most practitioners believed Congress would enact legislation prior to 2010 to avoid the current situation. In fact, the Senior Tax Counsel to the House Ways & Means Committee stated at professional seminars in late 2009 that he fully expected a one-year extension of 2009 law to be enacted before the end of 2009. However, health care reform took priority. Despite various bills on the subject and lots of haggling in Congress, that reprieve was not enacted, and we find ourselves in a very bizarre situation, to say the least.

## Will the Changes Affect My Estate Plan?

Every estate plan should be reviewed to determine whether the changes in the law will have any effect.

The most important factors to consider are the language of your Will or Trust, how your assets are titled, and your intent. Other factors which will affect the analysis are your family situation, the value of your estate (though previously non-taxable estates may also be affected), and whether your assets are appreciated (i.e., whether their value at the time you might die is more than their cost or tax basis).

Other imponderables are also relevant, i.e., the year of your death; and whether the estate tax, the generation-skipping transfer tax and the step-up in basis of assets on death will be reinstated and, if so, whether that will be retroactive.

“Every estate plan should be reviewed to determine whether the changes in the law will have any effect..”

## Isn't Repeal of the Estate Tax and GST Beneficial?

Since more than 99% of estates were under the 2009 exemption amount of \$3.5 million for a single person, or \$7 million for a married couple with a properly planned estate, repeal of the estate tax and GST is of no practical consequence for most people. This is because, as a practical matter, with those exemptions most estates would not have been subject to federal estate tax or GST anyhow.

However, many estate plans were drafted with reference to estate tax or GST concepts which are removed from the Internal Revenue Code as of 2010. These references could cause major problems in interpreting Wills and Trusts, and could actually frustrate your intentions, as discussed further below.

Further, the lack of a full step-up in basis could cause taxable income in many more situations than are benefitted by estate tax repeal. While there are still some opportunities under the new law for limited step-up in basis, technical requirements may not be satisfied unless the documents are changed. We will provide some examples of unanticipated outcomes below.

## Can't Congress Fix the Situation Retroactively?

We cannot say for certain whether Congress will enact any changes in 2010 or, if they do, whether those changes will be retroactive. The Democratic leadership in both the House and Senate have indicated their desire to reinstate both the estate tax and GST early in 2010, and to make those changes retroactive, so the period of repeal would effectively be eliminated. Some say that the longer Congress waits to pass legislation, the less likely it will be retroactive. Given what happened – or didn't happen – in 2009, we are reluctant to make any predictions.

If the law is changed retroactively, commentators believe that there will be legal challenges to such retroactive changes, but many also believe that the challenges will not be successful. Other cases have been litigated where retroactive changes in the law were deemed constitutional. In any event, if there are retroactive changes, extensive litigation is expected, and the legal status of these changes could remain up in the air for years.

Thus, we believe that it is dangerous to rely on the law as currently written to remain in effect. On the positive side, however, there are some planning opportunities under the current law which some may want to explore, particularly if this can be done in such a way that there is limited downside risk in doing so.

## Effect of Repeal On Who Gets What

Many estate plans provide that the maximum amount which could be left without triggering estate tax, or without triggering GST, will pass to certain beneficiaries. This was often done to shelter the amount from estate tax in the second estate, or to maximize what might pass to lower generations, without triggering GST.

After repeal of the estate tax and GST, that language could result in 100% of the estate passing to those beneficiaries, which may not be your intent.

Please take the time to review the following examples so you can see how the current situation could wreak havoc with an estate plan.

### Example 1

#### Inadvertently Reducing the Spouse's Share

Don's estate is valued at \$5 million. His Trust leaves the maximum amount that can be left without incurring estate tax to a Family Trust, of which his wife, Jan, and their children are beneficiaries. The Trust provides that the balance will pass outright to his wife, so she would get \$1.5 million outright, and the Family Trust would get \$3.5 million under the law in effect in 2009.

Under the law in effect in 2010, the Family Trust will get the entire \$5 million, and Jan will not get any outright bequest.

Does this make a difference to Jan? She and the children are the Trustees of the Family Trust, there are no mandatory distributions of income, and she has no voice in making distributions under the Family Trust. The situation could work out, but she could well be uncomfortable being left in this position.

### Example 2

#### Inadvertently Cutting Out the Spouse

The facts are generally the same as Example 1 except that the beneficiaries of the Family Trust are only Don's children by his prior marriage, and he put the plan into effect when the estate tax exemption was only \$675,000 and has not updated his planning. He intended those children to receive only \$675,000, now they will receive the entire estate, and Jan will receive nothing.

## Example 3 Inadvertently Cutting Out the Children

Bill's plan provides that the maximum amount that can be left without triggering GST is to be left in generation-skipping trusts, with the balance to pass outright to his children. If there is no longer a GST, that could result in the entire estate passing to the generation-skipping trusts, and nothing to the children.

If the children are beneficiaries of the generation-skipping trusts during their lifetime, the situation may be tolerable. But if only grandchildren and lower generations are beneficiaries of those trusts, this could be inconsistent with Bill's intentions – and a major disappointment for his children, who would have been inadvertently cut out of his estate.

### Example 4

#### Marital Bequest at Risk

Many plans include language to the effect that only property qualifying for the marital deduction will pass to the Marital Trust. In a situation of estate tax repeal there is no longer a marital deduction as such. This language could therefore cause any property intended for the Marital Trust to pass to other beneficiaries, perhaps to children or a Family Trust.

### Example 5

#### Charitable Bequests at Risk

Some plans include bequests to charities, which are conditioned on bequests to the particular charity qualifying for the estate tax charitable deduction. In a situation of estate tax repeal there is no longer an estate tax charitable deduction, and arguably nothing should be distributed to the charity – even if it is tax-exempt and in 2009 a bequest to the charity would have qualified for an estate tax deduction.

### Example 6

#### Problems with Bequests Expressed or Capped at a Portion of the Gross Estate

Some plans provide for division of the estate based on certain bequests being no more than a certain percentage of the "gross estate" for federal estate tax purposes. For example, Jim leaves \$500,000 to a trust for his parents' care for their lifetime, provided that this amount does not exceed 25% of his gross estate as finally determined for federal estate tax purposes. His gross estate was valued at \$2 million when he signed the Trust in 2007. The Trust is now valued at \$1.5 million.

How much should be distributed to the trust for his parents if he dies during a period of estate tax repeal when there is no "gross estate" and no final determination of the value of the gross estate?

## How Can Income Tax on Inheritance Be Increased Under 2010 Law?

Under the law in effect in 2010, when a person dies the step-up in basis at death is eliminated – except for the first \$1.3 million that passes to anyone and the first \$3 million that passes to the decedent's spouse if that bequest meets certain technical requirements. (Other adjustments are also possible.)

The extra \$3 million in step-up in basis will be available only for assets passing outright to a surviving spouse or in certain marital trusts.

This means that in many cases, where the heirs would have had a full step-up in basis under prior law, that will not be the case under 2010 law. They could be subject to income tax when they sell inherited property.

Record-keeping will be a nightmare. Under prior law, the date-of-death value or estate tax value became the new basis for income tax purposes, and that was fairly easy to determine. Under 2010 law your heirs will need to know your cost basis for the property they inherit.

Do you have cost basis information for all of your assets, regardless of how long ago you acquired them? Carryover basis, as it is called, was enacted decades ago, and repealed because of the tremendous administrative burden it created.

Further, the basis step-up is not automatic. It must be allocated to certain assets by the "Executor" (a defined term under the Internal Revenue Code), and Wills and Trusts should be modified to authorize the Executor to do this as he or she deems best. Otherwise, there could be claims that one beneficiary, receiving certain assets, was favored over another.

Consideration should be given to naming an independent fiduciary to do this, to avoid conflicts of interest. For example, if one child is the Executor and allocates step-up in basis to assets he or she will receive, the other beneficiaries could have a claim for breach of fiduciary duty.

If the entire estate passes to a Marital Trust which would have been a QTIP Trust under the law in effect in 2009, that should qualify as Qualified Spousal Property for purposes of allocating the special \$3 million of stepped-up basis. However, the trust might be modified to allow distribution of assets to the spouse during the spouse's lifetime if the spouse would otherwise not have sufficient assets to get the available step-up in basis on his or her death. Assets left in the Marital Trust on the second death will not qualify.

**“The good news is that the changes to your estate plan are relatively simple to implement...”**

## Example 7: Income Tax Due to Limited Step-Up in Basis

Joe dies in 2010, with no surviving spouse. He has a \$4.3 million estate which will be distributed to a trust for his son. The asset is a family business which Joe started from scratch, and there is zero basis.

No estate tax is imposed, but because Joe is not married only \$1.3 million of the basis can be stepped up for the \$4.3 million property. Therefore, the son's trust will receive the \$4.3 million property with a \$1.3 million basis. If the trust sells that property for \$4.3 million, there will be \$3 million of capital gain, which will be taxed at the capital gains rate. Assuming that the rate is 25%, the income tax due will be \$3 million x 25% = \$750,000.

## Example 8 Surviving Spouse May Lose Additional \$3 Million Step-Up in Basis

Assume Joe is survived by his wife, Andrea, and his plan still provides that the maximum amount that can be distributed free from estate tax will be distributed to a Family Trust for Andrea and their children. The Trust had not been amended to address the problem with the formula clause discussed above. As a result, the entire \$4.3 million estate will pass to the Family Trust.

The bequest to the Family Trust would not be Qualified Spousal Property, because it does not provide for mandatory distribution of income to Andrea, and has beneficiaries in addition to Andrea. There is only a \$1.3 million step up in basis; the additional \$3 million step-up in basis is not available. Thus, if the Family Trust sells the \$4.3 million in property, \$3 million will be subject to income tax, and if the capital gains rate is 25% the income due on the additional \$3 million in gain will be \$750,000. ♡

**Robert E. Kass**, Chair of the BSD&D Tax, Estate Planning & Probate Group, celebrated 30 years with the firm in 2009. His practice is concentrated in the areas of estate planning, wealth preservation, and planned charitable giving. Bob welcomes comments on this newsletter at any time. Please call him at 313-596-9312, or email [rkass@bsdd.com](mailto:rkass@bsdd.com).



## What Does All This Mean to Me?

**T**ry as we may, we are unable to draw any “bright lines” as to what types of estate plans will or will not be affected by the current confused state of the law. While married couples may seem to be more likely to have adverse consequences because of formula clauses that may no longer work as intended, unmarried people could have provisions in their plans which could also cause problems. Larger estates clearly stand to lose the most. However, we can imagine situations where even a very small estate, for example, with charitable bequests expressed with reference to the “gross estate” or the “charitable estate tax deduction” could also be affected.

If you are willing to assume that you will not die during this period of uncertainty, or perhaps that Congress will fix the situation with retroactive legislation that will be held constitutional, then your plan will probably work as you intended. However, many people will be unwilling to make either assumption.

The unfortunate truth of the matter is that only by reviewing your estate plan can we determine whether any changes need to be made to assure that it will function as you intended. The good news is that the changes your estate plan are relatively simple to implement. Please call us to request a review of your plan.

## Seven Points to Remember in Planning Your Estate

by Hayley E. Rohn-Davé

**R**eview and Update Your Planning. The changes in the law outlined in this Special Report are not the only reasons you should review and update your estate plan. There could be other reasons: Changes in your family (marriage, divorce, births, and deaths), and significant changes in your assets. We always recommend our clients review their planning every five years even if there are no events which suggest a review might be necessary.

**Review Your Fiduciaries.** Your estate plan may appoint certain people to make decisions either in the event of your disability or death: Your Attorney-in-Fact under your Durable Power of Attorney, your Personal Representative under your Will, your Successor Trustee under your Revocable Trust, and perhaps further Trustees under continuing trusts. Evaluate whether you are still comfortable with those choices. Perhaps you don't even remember whom you have appointed. If you appointed an outsider to serve in these roles, perhaps a child is now old enough to assume these responsibilities. If you appointed a child, are there reasons you would prefer someone else, perhaps because of your relationship with the child's spouse?

**Coordinate Your Estate.** Your Will or Trust must be coordinated with any beneficiary designations, such as those under any life insurance policies, annuities, retirement plans, and IRAs, and joint ownership. Lack of coordination can result in unintended consequences. Your beneficiary designations will generally “trump” whatever you have provided in your Will or Trust. It is not

uncommon for a client to provide for a trust for children in a Will or Trust, for example, but then forget to change the beneficiary designation under life insurance or retirement accounts. This could result in benefits passing outright, and not being held in trust.

**Think and Plan Outside the Box.** Even if your Will and Trust do not need any changes, a close review of your assets and your objectives may reveal significant planning opportunities.

Review your retirement accounts, life insurance policies, business interests, appreciating assets, joint property, out-of-state property, and so forth, to see if there are ways to shift assets outside of your estate on a tax-efficient basis. Insurance might be moved out of your estate into an irrevocable trust, to maximize the benefit from insurance and avoid estate taxes on your death, as well as your spouse's death.

**Don't Forget About Charities.** In tough economic times, you may be reluctant to make charitable gifts. Consider life income or deferred gifts which can provide you a stream of income for life or for a period of time, with an amount passing to the charity at death. Consider adding a bequest to a charity in your estate plan. This could be revised if circumstances continue to deteriorate or can be capped at a certain percentage of your estate so your heirs will not be short-changed. Consider using life insurance to fund charitable bequests. If you previously planned a bequest to charity but no longer feel your estate will be able to afford it, perhaps you have some unneeded life insurance which could be directed to charity. 📧



**Share Information with Loved Ones.** Prepare a detailed checklist of your assets and liabilities, insurance, safe deposit boxes, agreements, estate planning documents, patient advocates, and so forth. This should include the location of information which family members will need in an emergency. In addition, with so much personal and private information being stored online nowadays, include your user name and passwords for any online accounts.

**Maximize FDIC Coverage.** The FDIC deposit insurance rules have undergone a series of changes starting in the Fall of 2008. Deposits at FDIC-insured institutions are now insured up to at least \$250,000 per depositor through December 31, 2013. On January 1, 2014, the standard insurance amount will return to \$100,000 per depositor for all account categories except for IRAs and other certain retirement accounts (including IRAs) which will remain at \$250,000 per depositor. If you have questions, you may call the FDIC's consumer hotline, 877-275-3342, or visit their website at [www.fdic.gov](http://www.fdic.gov). The FDIC offers an online calculator that can help ensure that your savings are 100% FDIC-insured: <http://www.myfdicinsurance.gov/>. ☞

*Hayley E. Rohn-Davé is an associate attorney who joined the BSD&D Estate Planning Team in 2007. Hayley is a 2007 graduate of Wayne State University Law School where she received the Michael and Peggy Goldberg Pitt award for law students (2005-2007) and was a Women Lawyers Association of Michigan Foundation scholar (2006). At WSU Hayley was involved with the Women's Caucus and the Disability Law Clinic. Hayley's practice is primarily focused on estate planning and tax law.*

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## A Silver Lining in the Midst of a Real Estate Crisis

by Jeffrey Stefan

Residential and commercial real estate values will likely hit a low point in 2010 to levels not seen in many years. While this is sobering news, it does offer an unprecedented opportunity to appeal your real property taxes which are largely based upon the fair market value of your real estate. An appeal could result in significant tax savings for many years to come.

The Michigan Constitution requires that an assessment of real property cannot exceed 50% of its True Cash Value (i.e., fair market value). This assessment will in large part determine the Taxable Value for your property and the amount of real estate tax you pay each year.

The Assessed Value of real property is determined on December 31 of the preceding year. So for 2010, your property's Assessed Value will be based upon the value the local assessor determines as of December 31, 2009.

Property owners will receive an assessment notice (usually in the second or third week of February) with three figures relevant to property taxes: State Equalized Value, Assessed Value and Taxable Value.

Prior to 1994, taxes were levied on the State Equalized Value. However, Michigan voters approved Proposition A, and introduced the concept of Taxable Value. Now, taxes are levied on the property's Taxable Value, which can only rise by the lesser of inflation or 5% in any year, until an uncapping event occurs such as the sale of the property to a new owner. Taxable Value equals the lower of the Assessed Value or capped value, so a decrease in the Assessed Value will result in a decrease in Taxable Value in many instances.



2010 presents an opportune time to lock in tax savings for years to come, and our attorneys are well equipped to assist you. We have a significant practice in real estate tax appeals as part of our general real estate practice. We have successfully appealed real property taxes for all property types, including factories, theaters, shopping centers, hospitals and medical facilities, agricultural land and grain

facilities, warehouses and cold storage facilities, multi-use technology facilities and parking structures. In the past year we successfully resolved appeals involving a corporate headquarters with research and development facilities, a nursing home, a marina, and several shopping centers. Our client list includes members of the Fortune 500, publicly held retailers, and local and national developers and real estate investors. We have also handled many residential appeals.

With residential appeals, to preserve your appeal rights you must appear before your local board of review shortly after receiving your notice. Feel free to call Jeffrey Stefan at 313.596.9333 for a complimentary review of your assessment

notice and recommendation as to whether an appeal would be appropriate in your case. ☞

*Prior to joining BSD&D in 2005, associate attorney Jeffrey Stefan worked for a large regional law firm and also clerked for United States District Court Judge, Paul D. Borman. His practice covers all aspects of real estate law with an emphasis on both transactional and litigation matters, including real property tax appeals.*

# Rollover to Roth IRA for Long-Term Tax Savings?

by Elizabeth A. Carrie

**B**eginning on January 1, 2010, the \$100,000 modified adjusted gross income limitation on converting traditional IRAs and qualified retirement plans to Roth IRAs was eliminated and a special window of opportunity opened for those wishing to take advantage of the benefits of a Roth IRA. As you may already know, a Roth IRA has some significant tax advantages over a traditional IRA:


<b>Traditional IRA</b>	<b>Roth IRA</b>
Generally funded with pre-tax dollars; income tax deduction for contributions. (Can also contribute after-tax dollars, but no deduction.)	Funded with after-tax dollars; no income tax deduction for contributions
Tax-deferred growth on contributions	Tax-exempt growth on contributions
Withdrawals (other than return of after-tax contributions) taxed at ordinary income tax rates	Withdrawals after five years and past age 59½ are tax-free
Required minimum distributions at age 70½	No required minimum distributions
No contributions after age 70½	No contributions of employment or self-employment income after age 70½



When you convert a traditional IRA to a Roth IRA, you withdraw funds from your traditional IRA (usually by way of a trustee-to-trustee transfer), pay tax on your pretax contributions and tax-deferred growth, and contribute the cash to a Roth IRA. Although it is counterintuitive to pay tax that you could otherwise defer, under the right set of circumstances it can make financial sense to do so.

If you are close to retirement age and will need your IRA to fund living expenses, a Roth conversion probably does not make sense. But it might make sense if you: (i) have sufficient non-IRA funds to pay the tax on the conversion, (ii) won't need the Roth IRA funds to live on in retirement, (iii) expect your marginal tax rate to be the same or higher in retirement, (iv) want to leave a tax-free asset to your children or grandchildren, (v) have loss or charitable contribution carryforwards or nonrefundable tax credits, plan on making a large charitable contribution this year, or have made after-tax contributions to traditional IRA accounts (all of which will reduce the income required to be recognized on a conversion), or (vi) have a long time horizon before retirement.

What makes 2010 special is that if you do a conversion this year, you can either split the conversion income equally and recognize it over two years in 2011 and 2012, or make an election to recognize all of it in 2010 (which you might want to do given that income tax rates are likely to rise). The good news is that you don't need to make the decision at the time of conversion. You have until the date you file your 2010 income tax return (April 15, 2011 or October 15, 2011 with extension) to make the decision. What's more, if the decision to convert to a Roth IRA turns out not to have been a good one because, for example, the value of the converted assets has dropped, you can undo the conversion. You can do a "recharacterization," and put the dollars back into a traditional IRA, as long as the recharacterization is completed by the due date (with extensions) of your federal income tax return.

Whether or not to do a Roth conversion involves both "number crunching" and consideration of your overall estate planning goals and objectives. If significant amounts are involved, you will want to work closely with your professional advisors, particularly your financial advisor or CPA, in structuring the conversion. We have prepared a special report that provides a more in depth discussion of the factors to be considered in making a conversion to a Roth IRA. If you are interested in learning more about Roth conversions and how they might fit into your estate plan, please contact Betty Carrie at 313.596.9326 to receive a complimentary copy of the report. 

**Betty Carrie** joined BSD&D in 1994, after earning her LL.M. in Taxation at the University of Florida. A member of the firm, she practices in the areas of taxation, corporate, partnership and limited liability company law, and estate planning and administration. Betty has been involved in tax and non-tax related planning for business relationships of all types, with a particular emphasis on partnership and limited liability company issues. She also has experience in structuring like-kind exchanges, executive compensation arrangements and dealing with the unique tax and planning issues faced by exempt organizations engaged in business ventures. On the non-business side, Betty has extensive experience in estate planning including generation skipping transfer tax planning and the creation of intentional grantor trusts, qualified personal residence trusts, family limited liability companies and private foundations.

## BSD&D People in the News

**B**arris, Sott, Denn & Driker first opened its doors in 1965 and is a full service law firm providing services to a wide range of businesses and individuals. Many of our lawyers have been recognized for their excellent work and service to the community, including pro bono work, fund-raising efforts, and board memberships.

We are proud of our accomplished lawyers and we look forward to the opportunity of working with you. The following is a sampling of some recent accomplishments and recognition by our attorneys:

13 of our attorneys were recognized in the 2009 edition of **Super Lawyers** magazine, which compiles annual lists of leading attorneys by area of practice based upon a rigorous selection process that includes a statewide survey of practicing attorneys, independent research by the publisher's attorney-led research staff and a peer review of candidates. Only 5% of lawyers in any state are chosen.

The publication named Eugene Driker, Todd R. Mendel, Josh Moss, Eric Rosenthal, Morley Witus, Sharon M. Woods, Dennis M. Barnes, and Stephen E. Glazek for excelling in the field of business litigation. It also honored William G. Barris, Daniel M. Share, James Fontichiaro, and C. David Bargamian as among the top real estate attorneys in Michigan, and Robert E. Kass as a top estate planning attorney in the State. Eugene Driker was also named as one of the top 10 attorneys in the State. He and Sharon were also named as two of the top 100 attorneys in the State. Sharon was also named as one of the top 50 women lawyers in the State.

William G. Barris, Sharon M. Woods, Eugene Driker, Daniel M. Share, Robert E. Kass, and James S. Fontichiaro were named as **Best Lawyers in America** for the 2010 edition of the publication. Barris and Driker have been recognized for over twenty years. Barris was also recently named by Best Lawyers in America as the "**Detroit Best Lawyers Real Estate Lawyer of the Year**" for the year 2009. Both Driker and Woods were honored for their practice as commercial litigators as well as top choices for "Bet-the-

Company" litigation. Woods was also named as a Best Lawyer in the field of professional liability defense litigation. Kass was named a Best Lawyer in the field of Trusts and Estates. Barris, Share, and Fontichiaro were named Best Lawyers for their real estate expertise.

Kevin Kalczynski was named as a "**Future Star**" in the 2010 edition of **Benchmark Litigation**, an annual leading guide to America's top litigation firms and attorneys. Recognition as a "Future Star" is reflective of those individuals who were recommended consistently as reputable and effective litigators by peers, competitors and clients. Kevin was also re-elected as Chairperson of the **Royal Oak Downtown Development Authority** (DDA). The DDA's mission is to promote economic growth and revitalization in downtown Royal Oak.

Erica L. Fitzgerald was selected as one of 20 "**Up & Coming Lawyers**" by **Michigan Lawyers Weekly** for the year 2009. This annual selection recognizes the best and brightest young attorneys in the State of Michigan.

Todd R. Mendel, Rebecca Simkins, and Hayley E. Rohn-Davé were recently honored for their pro-bono efforts by the judges of the **U.S. District Court for the Eastern District of Michigan**. Todd practices in a wide variety of commercial and business litigation. Rebecca practices primarily in employment and healthcare law. Hayley practices primarily in estate and tax planning. Todd was also featured in an article in the **Detroit Legal News**, in which Judge Avern Cohn praised his pro bono work in diligently pursuing a prisoner civil rights case which culminated in a jury trial.

Jeri L. Parkin was recently named to the Board of Directors of the **Women Lawyers Association of Michigan - Wayne Region**. Morley Witus is a member of the Board of Directors of the **Detroit Metropolitan Bar Association**, and Robert Kass and Betty Carrie Co-Chair the DMBA Taxation Committee. In 2009 Bob Kass was recognized as Volunteer of the Year by **LEAVE A LEGACY™ Southeast Michigan**, for his efforts in chairing its Speakers Bureau, promoting charitable giving through estate planning, and featured in an article in the **Detroit Legal News**. 

BSD&D Estate & Financial Planning Insights is a publication of the law firm of Barris, Sott, Denn & Driker, PLLC, and is provided as an educational service to our current and former clients and friends. The fact that you have received this newsletter does not necessarily mean that you are currently a client of our law firm, as generally our representation ends when we conclude your estate planning. However, we welcome the opportunity to serve you again on other matters or to review and/or update your plan. The information provided in this newsletter does not constitute legal advice, and should not be relied upon as the basis for your own estate planning or investments. Estate planning advice must be tailored for each case. The examples discussed assume U.S. citizenship of the decedent and spouse. Rules differ for non-resident aliens. Please contact us at 313.965.9725 to discuss your particular situation.

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