

LIVING WELL WITH YOUR TRUST:

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Why, in these uncertain economic, tax, and social times ...

YOUR TRUST IS

THE BEST PLACE FOR YOUR WEALTH

Living Well with your Trust

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The Case of Bea and Acton Good and the Attack of the Killer D's

Here's how the Good family is living well with their trust, making the best out of their life situations and getting the most out of their opportunities.

Meet the Family:

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Acton and Bea Good

Normal doesn't begin to describe the Goods.

I have their permission to talk about their story.

-- "We know so many people like us, this will not be at all embarrassing," they said.



The Good Profile

- Acton Good works for Major Company and hopes to retire soon. He has a “good” **401(k)** plan.
- Bea has roll over **IRAs** from former employment and a **403(b)** from her public sector job.
- Bea recently inherited money from her parents and from an aunt. “More than enough to bury me,” she says.
- They own their **home** with a small mortgage.
- They have a modest **place on Cape Cod** that they hope the kids and grandkids will continue to enjoy.

The Goods on the Goods

- Acton has \$1m in **life** coverage and Bea \$200k.
- They have other **savings, home equity, investments** and **retirement** of \$1.7m bringing their total taxable estate to **\$2.9m**.
- Even if they let Acton's work policy lapse at retirement, they will still have a **taxable estate**, which in Massachusetts (and federally as of 1/1/11) is anything over \$1m.

Good Advisors

- Tex E. Vader, CPA (no relation to Darth)
- Jim (“Shorty”) Leif, CLU[®]
- Minnie Return, CFP[®] (with the financial firm of Guess Hope Little Return, LLC)
- They once used the Boston law firm of Bummer, Winsome & Lesome, P.C.

BUT, after friends made the recommendation they switched to

...

Attorney Tim Borchers

- Creator of
 - the Fundamental Estate Plan™
 - the Inheritance Trust™
 - the Heirloom Ownership Trust™
 - the Legacy Asset Savings Trust™
 - And so forth...
- Tim says, *“Good estate planning expresses and transfers value.”*
 - Bea and Acton aren't sure what that means, but they are happy with Tim.

Tim

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The Goods wanted someone
working hard for them

- who was just like them.



As with most families

- Life was nearly perfect for the young Goods. They noticed a change when they had kids.
- Bea Good said, “Now my life is complete.”
- Acton Good said, “Now my Saturdays are completely filled.”
- Following their lawyer’s advice, they *loved their children equally but treated them uniquely*.
- Just how uniquely, we shall see, but first...

... meet the children: **Shelby**

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- **Shelby Good.** Acton saw her on day one and said prophetically, “She shall be good.” And she was.
- Typical first child – high achiever and serious. She has a successful career.
- Curious choice in hindsight, but she married **Ben Sewd** and they began their ominous life together avoiding his **debts**, suits and other troubles.

Isadore

- As you got to know **Izzy Good**, you were tempted to ask, “Is he good?” He was definitely good; just, you were always tempted to ask.
- He graduated high school and began his colorless career.
- He turned out to be a responsible young man, but he now worries about possible **divorce** from his wife, **Mary T. Wise**.



Fairley



- “Farley” was a popular name when she was born. It was misspelled “**Fairley Good**” on her birth certificate, and as she matured, the name stuck.
- Fairley married **Louis DiMula** and ...that’s what he did....
- A committed and loving mother, Fairley wants to be sure her kids get any inheritance, not You-Know-Who.
- Lou’s a faithful father and husband, but his picture appears twice in Webster’s Dictionary – once next to “**spendthrift**” and also by the word “**dissipate.**”

Will B. Good

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- Will's nickname as a child was "Sling Shot."
At nine months he learned how to send projectiles from his diaper using the elastic waste band. His aim and his tricks improved with time.
- Yet his parents had faith in him and he's turned out ok. He has since discovered his soft side.
- In fact, he's turned out to be real softie. He married **Dee Stable**. Despite her undiagnosed **disability**, he is very devoted to her, and to their children.



The Good Estate Plan

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The 2005 estate plan achieved their goals:

- Estate Tax avoidance. Without planning estate tax of \$200,000 state and as much as \$800,000, or \$1m total. (It would be the same in 2011.)
- Probate avoidance
- Children outright in equal shares
- Done with a Revocable Trust with instructions on funding – transferring ownership and beneficiaries to the trust.

Living Well with your Revocable Trust

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- Acton and Bea are very **comfortable** with their revocable trust. Anything they want to do they can do – after all it's *revocable*.
- They wondered when they first executed their estate plan, would the revocable trust impact their **lifestyle**? It hasn't, but ...
- They feel they should be doing more – they can't put their finger on **exactly what else they should be doing**. They feel uneasy.

Is Bea and Acton's plan up to snuff?

- What have they done right?
- What should they be doing differently?
- What's around the corner that they should be anticipating?

Then vs. Now

1995's objectives

achieved:

- ✓ Estate Tax Avoidance
- ✓ Probate Avoidance
- ✓ Children in equal shares
- ✓ Anticipating Incapacity

2010's objectives:

- ❑ Children's Debt, Divorce, Dissipation, Disability avoidance
- ❑ Asset Protection for Acton and Bea
- ❑ Keeping up with Tax Law and IRA law
- ❑ Plus updating the 2005's objectives!

Lets take a look at the REVOCABLE TRUST plan of even 5 years ago...

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It was good to anticipate saving taxes and probate

It was good to leave the estate in equal shares

The kids were certainly “of age” to leave the estate to them outright, by the usual standards.

Was anyone in the family a basket case? No. So why do anything differently now?

Tax laws, IRA rules...

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Was the tax code being followed when they wrote trusts in 2005? Yes.

Were the IRA rules being observed? Yes.

Have these changed?

YES!

Have family matters changed?

Maybe, maybe not. The “hypothetical” risks were always there:

- **Debt** – Shelby with... **Ben Sewd**
 - **Divorce** – Izzy with... **Mary T. Wise**
 - **Dissipation** – Fairley with... **Louis diMula**
 - **Disability** – Will with... **Dee Stable**
- **The 4Ds of either the child or their spouses create significant risks for the Goods**

Adopt the Inheritance Trust™

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- Our plan for 95% of our clients now is that the estate is left in trust for the children in each child's Inheritance Trust.
- The 4D's can be sent packing!
- Children can be their own trustee if advisable at the time – the presumption is yes.



Grandchildren

- The Goods say that if they could have had them first they would have
- They would love to see something left over for them; a guarantee of something for their education would be great
- How can they do this? – their current plan says give the assets outright to their 4 kids!



Inheritance Trust™ helps again

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- Its easy to have money left over for grandchildren with the Inheritance Trust™
- They can also:



- Set aside a percentage
- Gift to a Gift Trust
- Establish 529 accounts for education

Uncertainty

- Should Acton and Bea consider asset protection for themselves?
- Long term care and medical costs?
- Living longer
- What is going to happen with
 - tax rates?
 - Social Security?
 - Estate Taxes?

Review and Update

- Review regularly through our R&R program
 - Follow a routine
 - Like an annual physical
- Update as needed
- Build in flexibility
 - Adopt Trust Advisor Provisions

Retirement Accounts

- Since 2006, separate distribution trusts for each child or grandchild are recommended
- These “Retirement Plan Trusts” can act as the beneficiary of the IRA or 401k to qualify for “stretch” of the IRA for the life of the beneficiary
- **Acton Good needs a stand alone Retirement Plan Trust**

Estate Tax in 2011

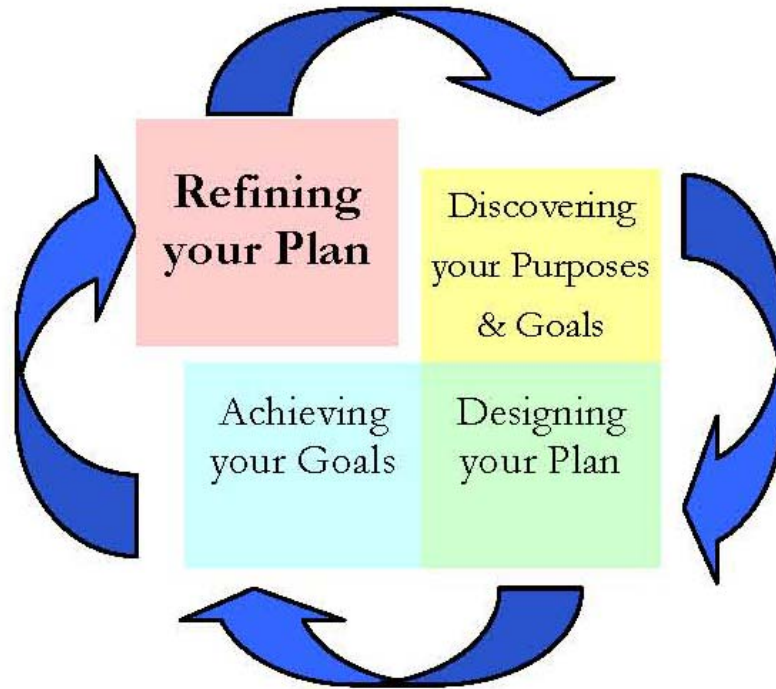
- The federal tax returns to an exemption of only \$1m
- The state of Massachusetts (and 17 other states) have estate taxes of their own. Massachusetts' is \$1m.
- What can Bea and Acton Good do?

Tax Tactics for Acton and Bea

- Make sure the trusts are up to date. If not done (or re-done) after 2002, then most likely out of date
- Purchase life insurance and place in an irrevocable insurance trust
- Get in touch with their charitable side. Giving to charity and family in place of giving to government

Uncertainty of Longevity

- The longer Bea and Acton live, the longer their trusts will be around
- How to keep the trusts current?



Estate Protection *Review and Refinement* TM

How do the Goods track their assets?

- Bea's mother died recently and she had a trust but many assets were not in the trust
 - a mutual fund account, stocks that were in joint name with the deceased husband, a bank account
- Who knew?
- What should trust owners be doing?

Innovations - The ATO as we call it

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Asset Trust Organizer (pioneered by Borchers Law, P.C. in 2007)

ASSET – TRUST ORGANIZER FOR SAMPLE CLIENT

The success of your estate plan in achieving the distributions to your loved ones and the cost savings that we have discussed depends on coordinating the ownership or beneficiaries of your assets with the plan documents. The purpose of the following charts is to provide assistance in coordinating the assets that you own with your estate plan.

Specifically, these charts provide:

- (1) Guidance for the ownership of your assets, such as bank accounts and real estate.
- (2) Wording for the beneficiary designations for those assets, like life insurance, IRA's and annuities where the naming of beneficiaries is required.

Please Note:

Trust designations should all follow this format: Trustee(s) name(s), Name of Trust and Date of Trust.

Use this wording for each trust:

SAMPLE CLIENT Revocable Trust:

SAMPLE CLIENT, Trustees of the SAMPLE CLIENT Revocable Trust dated *Date*.

Realty Trust:

SAMPLE CLIENT, Trustees of the *Client* Realty Trust, dated *Date*.

The ATO works!

- **“The success of your estate plan in achieving the distributions to your loved ones and the cost savings that we have discussed depends on coordinating the ownership or beneficiaries of your assets with the plan documents.”**
- **“The purpose of the following charts is to provide assistance in coordinating the assets that you own with your estate plan.”**

ATO – clear, concise funding

CHART DESCRIPTIONS

The following charts will allow you to concisely and accurately compile and maintain a record of all of your assets.

These charts are intended to be part of your permanent Estate Planning Binder and can easily be customized or altered as necessary. We have commenced each chart with a shaded ‘example’ area that is illustrative of how the data is to be recorded.

CHART 1: Bank Accounts, Mutual Funds, Stocks and Bonds

CHART 2: IRA and other Retirement Accounts

CHART 3: Life Insurance and Annuities

CHART 4: Real Estate

Your primary residence, vacation homes, “timeshare” interests and any other full or partial interest in real property.

CHART 5: “Valuable” Personal Property

Examples of “valuable” personal property may include fine art, antiques, coin collections, jewelry, collectibles, rare automobiles. Other includes miscellaneous business, intellectual property interests, interests in LLCs, Partnerships, assignable memberships.

You can't go wrong, and we can accurately share and update data

Asset – Trust Organizer Chart 1 for: SAMPLE CLIENT

BANK ACCOUNTS, MUTUAL FUNDS, STOCKS, BONDS – NON RETIREMENT

Transfer Pointers: Banks: New Signature Cards for existing accounts; Brokerage: New Brokerage account and Trust Certification

Owner Prior to Planning	Institution	Account Number	Estimated Account Value as of *Date*	Recommended Ownership	Tax ID #	Funding Status
SAMPLE CLIENT	ABC Mutual Fund Company	456789012	SAMPLE	SAMPLE CLIENT Revocable Trust	CLIENT NICKNAME's number	<input type="checkbox"/> Confirmed
						<input type="checkbox"/> Confirmed
						<input type="checkbox"/> Confirmed
						<input type="checkbox"/> Confirmed
						<input type="checkbox"/> Confirmed

Adopt the ATO™

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- By building and maintain the Asset Trust Organizer™ the Good estate will avoid all probate, not just some
- (Having *any* probate defeats the mission: avoid probate!)

The ATO and annual updating

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- The Goods can now tap into the ATO and keep it up to date, or have Paula at Borchers Law keep it up to date.



Family Financial Assistant

- Long before getting so that they cannot handle their affairs, Bea and Acton should **select a family member to “learn the ropes,”** to attend meetings with them, to help them and their advisors keep things in perspective
- Just like we ask a family member to come along on a medical appointment to be an extra set of eyes and ears, the Family Financial Assistant does the same on legal and financial matters.

Adopt an Irrevocable Insurance Trust

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- An Irrevocable Life Insurance Trust (“ILIT”) is basically mandatory for taxable estates (estates now or likely to be over \$1m)
- The ILIT removes the life insurance proceeds from the taxable estate
- Saves 10-50¢ on every dollar of proceeds
- Review and possibly update or “refinance” their policies

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- Flexibility is not the first word you think of when you think of “irrevocable”
- Yet even our oldest irrevocable trusts contain provisions to assist making adaptations to change
- Is your trust irrevocable? Will it be?

Every Trust is or becomes Irrevocable

- If the trust is around long enough, the revocable trust is irrevocable:
 - At death of one spouse
 - At the death of second spouse
 - At the point of funding the irrevocable trust, there is no pulling back
- Is this a bad thing??

Irrevocability provides protection

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- What you cannot do, no creditor or judge can make you do
- But build in flexibility
 - Trust advisor who can amend if necessary
 - Reserve the ability to redirect the distributions by power of appointment exercised at death
 - Reserve trustee appointments

Flexibility within the Irrevocable Trust

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Your irrevocable trust may contain one or more of these helpful provisions:

1. Power to remove and appoint trustees
2. Power to “appoint” the distributions differently than first set up
3. Power in the trustee to pay the distribution to “*or for the benefit of*” the beneficiary, meaning, liberally speaking, a new trust can be created
4. Power to make “administrative amendments”

Recent innovations in Irrevocable Trusts

1. Trust Advisors who can amend tax, administrative provisions, approve, remove and appoint trustees for tax, asset protection and fiduciary purposes
2. Authorization for creation of specific trusts namely:
 - Inheritance or Spendthrift Trusts, Retirement Plan Trusts, Special Needs Trusts and Charitable Trusts for beneficiaries

Consider a LAST™ Trust

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- **A Legacy Asset Saving Trust™** will help preserve assets from having to be spent on nursing home care. You can qualify for Medicaid using this trust.
- You must be a good candidate – we apply several tests to be sure.

Other Irrevocable Trusts

- Tax savings primarily drives these instruments
- Do the Goods need them?
- They might if their estate grows, or if they are charitably inclined in how they leave their estate.

Clients with older Irrevocable trusts:

Trusts drafted before 2007 are probably lacking some of these benefits and can be updated using “administrative amendment” authority:

- Inheritance Trust distribution for protections against the 4D’s in the next generation
- Trust Advisors. We can avoid going to court to make many changes or updates in irrevocable trusts using the trust protector/advisor

The Good Estate Plan is now...

The Better estate plan

(You may now gag all together)

- Bea and Acton have:
- Gained confidence in their legal health status with the R&R annual review
- Feel up-to-date following sensible refinements
- Are not afraid of Irrevocable Trusts now

Bea and Acton Good are...

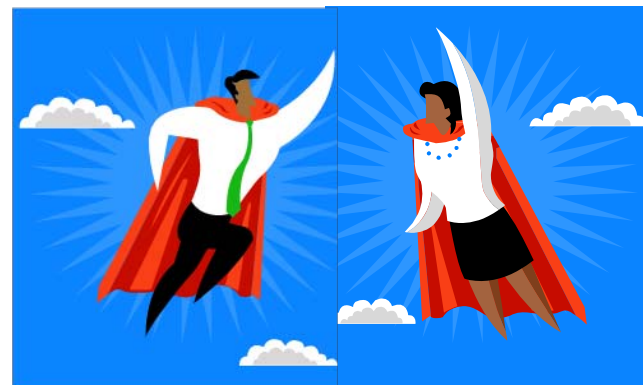
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- *Stronger* to deal with and overcome personal, and family upheavals!
- *Saving* taxes with a life insurance trust
- *Confident* of totally avoiding probate with the ATO
- *Sleeping better* knowing that they are leaving their estate by way of Inheritance and Retirement Plan Trusts and vanquishing the Killer Ds.



Estate Taxes in 2011

- The 2001 tax law known as EGTRRA expires this year and the estate tax goes back to what was in effect 12/31/2001
- \$1m exemption (just last year it was \$3.5m)
- The highest tax rate will be 55%
- Above \$10m in assets it's 60% with the surcharge

2010 anomalies

- There is no estate tax in 2010 but there is a confusing new capital gains provision on carry-over basis
- There's a "tax sale" going on now – gift tax is only 35%
- There is no generation skipping transfer tax in 2010 ... but when it comes back in 2011, will gifts made in 2010 have to be counted as using up part of the exemption from tax?
- No one knows

Marital Deduction planning

- Estates with large direct inheritance by the spouse (joint real estate for example or large roll over IRAs) should be redirected to pass through marital deduction trusts, or “QTIP” Trusts.
- Our plans routinely include QTIP Trusts, but we have not routinely provided that assets be payable to the trust if going to the spouse was acceptable. Consideration should be given to doing so.
- **Asset ownership and beneficiary designations should be reviewed for all taxable estates in 2011.**

Thank you very much!

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