

# OCTOBER 2009 ESTATE PLANNING NEWSLETTER

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To: Clients and Friends  
From: A. Kel Long, III  
Re: News from the Estate Planning World

## UPDATED WEB SITE [www.AKELLONG.com](http://www.AKELLONG.com)

I have recently updated my website, and hope that you find it helpful. This and previous newsletters are posted there along with other information. Please note the website in your rolodex or other permanent records. I expect that I will always retain that domain name and thus you will be able to locate me in the future via the website regardless of office address or phone number changes.

## ESTATE AND GIFT TAX CHANGES

In previous newsletters, I have reported that many lawmakers and President Obama were in favor of making the 2009 death tax exemption of \$3.5million and 45% estate tax rate permanent. Otherwise, current law provides that for 2010 the estate tax is repealed, but on January 1, 2011, the estate tax returns with the old \$1,000,000 exemption and 55% tax rate. That is obviously a crazy scenario – giving people an incentive to die in 2010.

It is hard to believe that we are now two months from the 12/31/2009 deadline and no action by congress yet. What does this mean? Probably that congress will extend (versus make permanent) the 2009 law for 2010. That will be a band aid, and in 2010 congress should then address estate taxes with a permanent act. And if they don't address estate taxes in 2010? Then on 1/1/2010, we revert to the \$1,000,000 exemption. Given the deficits being discussed related to health care plans, some are speculating that congress, by doing nothing in 2010, will let the estate tax exemption return to the old \$1,000,000 exemption.

Given the extraordinary need for tax revenue, it hard to know what congress will do with estate taxes. For the past year, I had been expecting to be able to cover \$7,000,000 of assets for a husband and wife (2 x \$3.5million). If the estate tax exemption reverts to \$1,000,000 per person, many clients who would not have had to pay estate tax will now need to do more estate tax planning.

As soon as I know more, I will send an updated newsletter. You can also check my website for updates – [www.AKELLONG.com](http://www.AKELLONG.com)

## LIFE INSURANCE – HOW MUCH SHOULD YOU HAVE? (NON-WORKING SPOUSE)

In the August Newsletter, I discussed how to calculate the term life insurance need for a working spouse. I noted that in the next newsletter, I would discuss how to determine the life insurance need for a non-working spouse.

In the last newsletter, you will see that I provided a formula for calculating the insurance need on a working spouse necessary to replace income so that the surviving spouse and children are able to maintain their accustomed standard of living. But with a non-working spouse, the determination is not so scientific. This is because you are not looking at replacing an income stream. Instead, if a non-working spouse passes and is survived by a working spouse and minor children, two economic factors should be considered.

The first economic factor is determining the value of providing full time child care and a house manager. Most people are aware of that need and can make some guesses at what that would cost.

The second economic factor that many people don't consider is the cost to the working spouse of lost income due having to be much more participatory with the children. In many households, the non-working spouse handles most of the carpooling, school issues, sports activities, etc. When the working spouse now has to take on this responsibility, his/her ability to climb the corporate ladder is restricted. The working spouse may also decide to change careers or employers for more flexibility, thus possibly reducing the household income.

As you can guess, there is no formula for measuring the economic cost of losing the non-working spouse. So what do most people do? For couples in their 30's or 40's with a good income and minor children, many will purchase a 10 or 20 year level term policy on the non-working spouse in the amount of \$500,000 to \$1,000,000. You see that over and over again and it seems to make sense. It is also generally inexpensive.

If your circumstances do not fit within the model above, or you have other questions on life insurance as part of your estate plan, please let me know.

### RECENT PUBLICATIONS:

I will have an article published in the fall edition of the *Verdict* magazine, which is the quarterly periodical of the Georgia Trial Lawyers Association. As many of you know, I have worked for over 15 years in the special needs trust area. In some cases, that means drafting a trust for a disabled loved one as part of your last will and testament. In other cases, where someone is seriously injured, we will use a special needs trust to hold the litigation proceeds. The article for the *Verdict* deals with Medicare set aside trusts and related special needs trust issues when settling a claim for an injured person.