

## PACIFIC BUSINESS NEWS

THE BUSINESS OF LAW  
EXPERT LEGAL ADVICE FOR HAWAII'S SMALL BUSINESS

This advertising service is intended for information purposes only. To schedule an appointment or address additional information, please forward questions to the respective legal professional's email address.



**Michelle H. Tucker**  
CFP®, JD, CPA/PFS  
(808) 531-5391  
Haseko Center  
820 Milliani St. 4th Fl.  
Honolulu, HI 96813  
www.sterlingandtucker.com

STERLING &  
TUCKER LLP  
A LAW FIRM



**John D'Amato**  
jdamoto@benefitslawyers.com  
(808) 546-5200  
900 Fort Street Mall  
Pioneer Plaza #1680  
Honolulu, HI 96813  
www.benefitslawyers.com

D'AMATO &  
MALONEY



**Martin E. Hsia**  
cades@cades.com  
(808) 521-9200  
1000 Bishop Street,  
Suite 1200  
Honolulu, HI 96813  
www.cades.com

cades • schutte



**PBN**  
(808) 955-8050  
The PBN Building  
1833 Kalakaua Avenue,  
7th Floor  
Honolulu, HI 96815  
www.pacificbusinessnews.com

## TOPIC

**The Hidden Cost of Tax Deferral**

Investment decisions involve many considerations, and among them is this: the type of account that you invest in can alter the advantages that an investment has to offer.

All annuities, IRAs and retirement accounts will grow, and as they grow the growth is tax-deferred. But none of the growth and income in the account will escape taxation at ordinary income rates. All withdrawals will be taxed, sooner or later, at your marginal tax rate which for most people is 25%. The only exception is a Roth IRA.

You are probably investing in a retirement account, so be aware of how this type of account might affect an investment's characteristics.

For example, consider the advantages of a tax-free municipal bond. The interest income on the municipal bond is tax-free. Put the municipal bond in an IRA and presto, the interest income will be taxed – not immediately but eventually when you withdraw from the IRA.

Other investment gains are taxed at favorable tax rates, for example, the 15% capital gains rate and the 15% rate on qualified dividends. Since growth in retirement accounts is always taxed at ordinary income rates, the preferred-tax-rate feature is lost on these investments in retirement accounts.

All investments that have appreciated in value pass to your heirs income-tax-free on your death. Not so if the investment is purchased in a retirement account – once withdrawn from the retirement account, ordinary income tax rates will apply.

The death benefit from a life insurance policy is received by the beneficiary income-tax-free. If you buy the life insurance in a retirement account because you want to pay the premium with your tax deductible contributions, your beneficiary won't be happy – the proceeds are now fully taxable.

Finally, consider the redundancy of putting a tax-deferred annuity in a tax-deferred retirement account.

## TOPIC

**Early Retiree Reinsurance Program**

The Affordable Care Act (part of the new federal health care law) includes a \$5 billion subsidy for the health claims of early retirees under employers' retiree medical plans. The idea is to give employers an incentive for maintaining coverage of retirees between the ages of 55 and 65. The subsidy can be as much as \$60,000 per early retiree per year.

To get the subsidy, employers must apply to Health and Human Services (HHS). Applications will be accepted starting June 1st. This is a first-come, first-served program, and reimbursements will stop when the money runs out. On 5/5/2010, HHS published interim regulations on the program. Google "HHS Early Retiree Reinsurance" to find the regs.

**Extension of Dependent Coverage to Adult Children**

If you sponsor a group health plan that covers dependents, the Affordable Care Act requires you to extend such coverage to adult children to their 26th birthday, regardless of whether the children are students, disabled, or tax dependents. An employer may cover such children through the calendar year in which they turn 26 and exclude the value of the coverage from employees' wages and/or permit employees to cover such dependents on a pre-tax basis. The requirement to provide the coverage starts with the first plan year beginning on or after 9/23/2010 (generally, 1/1/2011). Plans in existence on 3/23/2010 are grandfathered and may delay providing the coverage until 1/1/2014. Collectively bargained plans are grandfathered until the end of any bargaining agreement ratified before 3/23/2010.

## TOPIC

**A Common Intellectual Property Myth**

I paid for the software/website/ photograph so I own it.

**REALITY:** Under copyright law, the rights to make, distribute and adapt creative works belong exclusively to the author. The only exceptions are (a) if the author was an employee, acting within the scope of employment; and (b) if there was a written agreement and the work was one of 9 special types of works (software, music, books are NOT included). Copyright rights can only be transferred in writing. Independent contractors are NOT employees. So if you want to legally make, distribute or adapt creative works, you must have any independent contractors transfer all their copyright rights to you in writing.

*Martin E. Hsia is a registered patent attorney, one of the few patent attorneys in Hawaii. He practices patents, trademarks, copyrights, trade secrets, computer, licensing and entertainment law at Cades Schutte. Cades Schutte is one of Hawaii's largest full-service law firms with over 70 attorneys serving local, national and international clients.*

## TOPIC

**Be the Legal Expert in Your Area of Practice**

Every month, Pacific Business News will publish the Business of Law page – Each column is aimed at providing expert legal advice and solutions for Hawaii's Small Businesses. This column is formatted by way of question and answer or challenge and solution. It will specifically address an attorney's expertise in his or her area of practice. This is an excellent opportunity to be positioned as the authority as well as brand the attorney's talent and the firm's team. Be a part of this growing community of experts by contributing to this column in the Pacific Business News Business of Law page program.

**Next issue will run on June 25th. Call 955-8050 for more details and the value-based rate information.**

**PACIFIC BUSINESS NEWS**  
UNDERSTAND HOW HAWAII WORKS

*[Handwritten signature]* 6/4/10