



Technology Corner

By Joseph G. Hodges, Jr.

Some Key Estate Planning Resource Portals on the Internet

In my various wanderings through the vastness of the World Wide Web in search of useful resources and Web sites for professionals involved in estate planning, I have found a few key sites to bookmark as “portals” to all sorts of useful information. While there are a vast number of estate planning sites currently on the Web, and a Google search for key words such as “wills” or “estate planning” will produce hits on most of these, the majority of these sites are targeted at the public and do not provide a lot of substantive content that is useful to professionals.

The purpose of this article is to identify and briefly describe some of these portal sites which can be quite useful to the estate planning professional.

Perhaps the seminal site in this category is the **EstatePlanningLinks.com** Web site (www.estateplanninglinks.com). This site, which was started in 1995 by St. Louis, Missouri estates and trusts attorney Dennis M. Kennedy, is being continued today by estates and trusts attorney Dennis Toman, who is a partner in the Greensboro, North Carolina law firm of Booth Harrington Johns & Toman, LLP. This site is very comprehensive and may contain one of the most extensive collections of estate planning links for professionals currently available. Included among the major link categories on this site are such topics as basic and advanced estate planning resources (including FLPs, QPRTs and GRATs), estate planning calculators and forms, valuations, life and long-term care insurance, charitable planning, offshore and international planning, taxes, probate and living trusts, newsletters and periodicals, EP law practice and technology, laws and government, law firms and lawyers, other useful resources and fun estate planning sites. In addition, there are separate sets of links to such things as estate planning bookstores and newsletters, the webmaster’s pick of the “best” estate planning sites, an elder law page and even reviews of this particular site by others.

Another excellent site, which is organized into basic link categories and uses “new” and “updated” icons and some date stamping to highlight new and updated items, thereby making return visits to this site less time consuming, is the LREP or **Legal Research for the Estate Planners** Web site (www.geocities.com/jasonhavens/LREP.html). This site was created by Jason E. Havens, an estate-planning attorney in Fort Myers, Florida. One nice feature of this site, for those of us who do not like framed sites, is that there is a special link on the left-side frame on the home page whereby you can choose to disable frames and navigate this site in the traditional way. Another nice feature is that some sites are denoted by a “money” icon in the stated hope that these sites will make researchers more efficient, thereby saving money for professionals and their clients. This well-annotated site indexes its various links into the following six broad categories: General EP Research sites, National EP sites, State Specific and Local EP sites, Specific EP topics, EP Literature and EP Practice Tools. Within the EP topics category are links to sites dealing with such things as GSTs, FLPs, marital planning, elder law issues, charitable and retirement planning, employee benefits, international tax planning and tax litigation. There is also a special link to a list of the site owner’s Favorite 50 LREP Sites, all of which are taken from the six site categories.

A site that used to be one of the best, but has become somewhat dated and has developed many broken links since its original owner, California attorney Mark Welch, stopped maintaining it, is the **California Estate Planning, Probate and Trust Law** site (www.ca-probate.com). The Pleasanton, California Castleman Law Firm, PC, is now sponsoring this site. Although primarily a California lawyer site, this

Joseph G. Hodges, Jr. is an attorney in Denver, Colorado and serves as Co-Chair of the ABA’s Real Property, Probate and Trust Law Section Technology Committee.

site still has useful content for estate planning professionals, including a collection of a useful set of estate planning advisory news articles, a forms library that includes forms for wills, powers of attorney and advance directives, and links to other law and estate planning Web sites, including a national directory of estate planning, probate and elder law attorneys in all 50 states that is searchable by location, the firm name or the attorney's name. This site is probably best known for its wonderful collection of *Wills on the Web*, which includes the full text of the wills of several famous people, including Princess Diana, Walt Disney, Jacqueline Kennedy Onassis, Babe Ruth, Elvis Presley, Ben Franklin, Samuel Johnson, John Lennon, Doris Duke and Marilyn Monroe, as well as those of some ordinary people, and especially some that date as far back as the 17th and 18th centuries. Much can be learned about novel ways to plan an estate from these documents.

A site that is focused in part on the estate planning and probate laws of the state of Pennsylvania, but also contains a great deal of useful information for estate planning professionals everywhere, is the **Pennsylvania Estate and Trust Cybrary** (<http://evans-legal.com/dan>). This site is maintained by Philadelphia lawyer Daniel B. Evans, who is an active member of and frequent author for the American Bar Association's Real Property, Probate and Trust Law and Law Practice Management Sections. Dan is probably best known for authoring the following three popular publications for estate planning professionals: *WILLS, TRUSTS, AND TECHNOLOGY: AN ESTATE LAWYER'S GUIDE TO AUTOMATION*, (American Bar Association, 1996); *HOW TO BUILD AND MANAGE AN ESTATES PRACTICE* (American Bar Association, 1999); and *THE NEW BOOK OF TRUSTS* (co-author) (Leimberg Associates, Inc., 1997). In fact, he maintains an updated version of *Appendix A—Software for an Estates Practice* from his *Wills, Trusts and Technology* publication on this site, at <http://evans-legal.com/dan/wtt-new.html>. Perhaps the most useful part of this site for estate planning professionals is *The Tax Protester FAQ*, which is located at <http://evans-legal.com/dan/tpfaq.html>. The stated purpose of this FAQ is:

to provide concise, authoritative rebuttals to nonsense about the U.S. tax system that is frequently posted in *misc.taxes*, and on web sites scattered throughout the Internet, by a variety of fanatics, idiots, and dupes, frequently referred to by the courts as "tax protesters." This 'FAQ' is therefore not a collection of frequently asked *questions*, but

a collection of frequently made *assertions*, together with an explanation of why each assertion is false.

Consistent with this purpose, Dan has collected here a wealth of links and resources that estate planning professionals can use to educate their clients about all the estate planning myths and scams that currently exist, including the "constitutional," "pure" or "equity" trusts, and the constitutional, statutory and procedural fallacies of the various public positions of these tax protestors as many of these positions are set forth boldly in professionally done Web sites that these protesters maintain as if they were the gospel truth.

A site that is focused in part on the estate planning and probate laws of the state of New Jersey, but also contains a lot of useful information for all estate planning professionals, is the framed Web site of the Matawan, New Jersey law firm **De Maio and De Maio** (www.demaio.com). What makes this site stand out from many of the others are its Foresight Newsletter, Reference Library and Estate and Tax Planning Reading Room links. The quarterly newsletter archive contains both the current issue and links to prior issues dating back to the winter of 1995, and you can subscribe to this newsletter for free. The Reading Room links, which are updated frequently, take you to the full text of many relevant articles that have appeared in popular magazines and newspapers, including the *NEW YORK TIMES*, the *WASHINGTON POST*, the *SAN FRANCISCO CHRONICLE*, *FORBES*, *KIPLINGER'S PERSONAL FINANCE*, *SMART MONEY*, *TIME*, *U.S. NEWS*, *NEWSWEEK* and *USA TODAY*. This site is maintained by estate planning attorney Andrew J. De Maio, who is well known for his former involvement with **Law Threads®** and his current involvement as a contributing author to the *Leimberg Newsletters* and Web site.

Speaking of the *Leimberg Newsletters*, Bryn Mawr, Pennsylvania estate planning attorney, Stephen R. Leimberg, maintains a very valuable Web site for his **LISI Leimberg Information Services, Inc.** at www.leimbergservices.com. Here you can subscribe to the fee-based newsletters that Steve and his cadre of respected estate planning professionals frequently publish electronically. Currently, there are six newsletters available. They are the *News of the Week* estate planning newsletter, the *Employee Benefits and Retirement Planning* newsletter, the *Business Entities* newsletter, the *Financial & Markets* newsletter, the *Asset Protection Planning* newsletter and the *Charitable Planning* newsletter. In addition, subscribers have access to the new Web version of Andy De

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Texas determined that in valuing a 25-percent assignee interest in a Texas general partnership where the rights of the assignee were not defined clearly under Texas law, discounts for lack of control (20 percent), portfolio (10 percent), and lack of marketability (35 percent) should be applied. These combined discounts resulted in an aggregate discount of approximately 54 percent. The assets of the partnership consisted of ranch land, mineral royalties, working interests and securities. Interestingly, the taxpayers' expert in *Adams* was the same expert who testified for the taxpayer in *Knight*. The results were substantially different.

E.J. Church

In *E.J. Church*,⁹ the Federal District Court for the Western District of Texas, San Antonio Division, allowed combined discounts in valuing Mrs. Church's interest in a family limited partnership of approximately 63 percent. The partnership assets consisted of real estate and marketable securities. The IRS introduced no expert valuation testimony.

Where Are We Now?

IRS agents and appeals officers throughout the country have been touting *Strangi* and *Knight* as IRS victories because of the relatively small discounts granted by the Tax Court. I have heard more than one IRS agent state that the Tax Court in *Strangi* and *Knight* is sending taxpayers the signal that the court will not allow "big discounts" in connection with valuing family partnerships. I disagree. The signal that the Tax Court sent in *Strangi* and *Knight* was not that large discounts will not be allowed; rather, the signal sent was that the valuation experts must thoroughly

explain their analysis and conclusions. If they do not, the court will not accept their testimony.

Valuation discounts for lack of control and lack of marketability are real. A person acquiring an interest in a family limited partnership, particularly a noncontrolling interest, lacks the ability to dictate how the partnership will be run and how distributions will be made. There is no established market on which the interest can be traded.

As can be seen from Table 1, taxpayers have sustained substantial valuation discounts in cases where the court found their expert's valuation testimony more persuasive than the valuation testimony presented by the government. Practitioners must remember that the valuation report is the most important piece of evidence in a transfer tax dispute. Because the valuation filed with the transfer tax return constitutes an "admission" of value by the taxpayer, it is important for the taxpayer to obtain well-reasoned appraisals from a qualified appraiser *when the return is filed*.

ENDNOTES

- ¹ See, e.g., LTR 9736004 (June 6, 1997); LTR 9735043 (June 3, 1997).
- ² *A. Strangi Est.*, 155 TC 478, Dec. 54,135 (2000) (appeal to Fifth Circuit Court of Appeals pending) (rejecting lack of economic substance, Code Sec. 2703 and gift on formation arguments).
- ³ *I.F. Knight Est.*, 115 TC 506, Dec. 54,136 (2000) (rejecting lack of economic substance and Code Sec. 2704(b) arguments).
- ⁴ *B.P. Kerr*, 113 TC 450, Dec. 53,667 (1999) (appeal to Fifth Circuit Court of Appeals pending) (rejecting IRS's application of Code Sec. 2704(b) to a Texas limited partnership).
- ⁵ *W.W. Jones II Est.*, 116 TC 121, Dec. 54,263 (2001) (appeal to Fifth Circuit Court of Appeals pending) (rejecting gift on formation argument, Code Sec. 2704(b) argument).
- ⁶ Reg. §20.2031-1(b).
- ⁷ *E.M. Dailey Est.*, 82 TCM 710, Dec. 54,506(M), TC Memo. 2001-263.
- ⁸ *P. Adams*, DC Tex., 2001-2 USTC ¶60,418.
- ⁹ *E.J. Church*, DC Tex., 2000-1 USTC ¶60,369, *aff'd*, CA-5, 2001-2 USTC ¶60,415.

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Maio's popular **Law Threads**[®] service. The monthly fee for all six of the LISI newsletters and 24/7 access to the entire LISI database and calculators is only \$14.95 per month, and this cost is the same whether you subscribe to one or all six newsletters; plus you can make that choice at any time and for free. The searchable archive of published newsletters and **Law Threads**[®] is alone worth the price of subscribing to this service and bookmarking this site.

The Texas Probate Web Site (www.texasprobate.com), which is maintained by Texas estate planning attorney Glenn M. Karisch of the Austin, Texas law firm of Barnes and Karisch, P.C., is primarily designed for Texas estate planning professionals, since it was initially developed as a result of Glenn's ongoing efforts to track and report on Texas probate legislation. However, this site also has grown to have a comprehensive collection of universal estate planning links that Glenn presents in an easy to use three-column tabular format with the name and URL of the link, his description of the site, and his "Chili Pepper" award for each site, with the best of these sites being awarded his highest four-chili-pepper rating. These links include an extensive collection of **Legal Research** links (www.texasprobate.com/main/links.htm), **Federal and Tax** links (www.texasprobate.com/main/federallinks.htm), **State Law** links (for all 50 states) (www.texasprobate.com/main/statelinks.htm) and a separate collection of **New, Interesting and Useful** links (www.texasprobate.com/main/newlinks.htm).

A companion Texas Web site that is particularly useful for estate and

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retirement planning issues is the **TrustsAndEstates.net** Web site (www.trustsandestates.net), which is maintained by Texas estate planning attorney Noel C. Ice of the Fort Worth, Texas law firm of Cantey & Hanger, LLP. Included here are links to such useful things as the new proposed MRD rules, a "virtual" Treatise on estate planning for IRA and Qualified Plan distributions, ROTH IRAs and guest articles on such things as FLPs, LLCs and even EGERTA. He also maintains a series of "nutshell" guides here about various estate planning topics, all of which are written for the lay consumers of these services.

A California site with a broad range of tax analysis articles, including many on estate planning, is that of San Francisco lawyer and columnist, Robert L. Sommers, a.k.a. **The Tax Prophet** (www.taxprophet.com/tp.htm). Sommers is a regular contributor of articles to the San Francisco Examiner, and he publishes many of the columns and other articles he has authored on his Web site. Some of the relevant link categories that are included on his home page are Employee Stock Options: Friend or Foe?, Estate Planning, Foreign Taxpayers, a comprehensive Tax and Trust Scams Bulletin Board and six year's worth of his Tax Man and FAQ Tax Columns. The **Scams Bulletin Board** alone (www.taxprophet.com/hot/Trustscam.htm) is worth its own bookmark as a companion to the Dan Evans' Web site discussed previously.

When it comes to elder law issues, perhaps the best combination of Web sites here is the **National Academy of Elder Law Attorneys, Inc. (NAELA)** (www.naela.com), and in particular their Hot Links (www.naela.com/naela/hotlinks.htm), and the **Kansas Elder Law Network (KELN)** site

(www.keln.org). Despite its name, the KELN site has huge amounts of very useful information for elder law attorneys throughout the United States (even though it is maintained primarily as a public service to Kansas's senior citizens and their advocates), as its legal and quasi-legal databases are national in scope and include vast amounts of primary and secondary materials. The KELN Annotated Bibliographies provide an extensive amount of information on a wide variety of elder law legal topics, and their Legal Databases have a comprehensive index to elder law materials that are available online, including the full text of documents, articles, case law, statutory materials and forms.

Obviously, I have missed mentioning many other good portal Web sites, including my own, which moved to www.jghlaw.com in mid-June of 2001, but that is by no means intentional. There also may be some newer sites that some of our readers are aware of that deserve some coverage in future columns. If you are aware of any such sites, please send me an e-mail at jghodges@jghlaw.com giving me the name and URL of the site so I can check it out, as it very well may become a featured site in a future issue of this *Technology Corner* column.

This Issue's Featured Web Sites:
www.actecfoundation.org—ACTEC Foundation New Web Site
www.findarticles.com/PI/index.jhtml—Find Articles Online
www.nara.gov—NARA National Archives and Records Administration
www.lawtechnology.org/lawlink/home.html—ABA Revised and Relocated LawLinks
www.mindit.netmind.com—Mind-It Web Site Changes Monitor

example, as illustrated above, when advisors feel as though they are working harder than their clients, they probably are working too hard. There may be many reasons for this kind of imbalance: differences in priorities, lack of clarity about goals or indifference to stakeholders. Whatever the reason, when advisors use their feelings as diagnostic cues, they are able to take a step back, observe the process, then use it to guide their work.

Advisors who observe and trust their own feelings may discover creative ways to use these feelings in their work with clients.

Example. An advisor met with a business executive who was contemplating retirement. The client was concerned that the downturn in the stock market would undermine his retirement plans; the advisor was concerned that the client's spending habits were a greater risk to his security. During the meeting, the advisor noticed that she was feeling angry with her client. She decided to take a risk and gently share her feelings with her client: "I know this may sound ridiculous, but I'm feeling a little angry at you. I care about you, and I realize that I can't tell you what to do, but here you are blaming the stock market instead of controlling the thing you have most control of—your own spending." The client, surprised by the intensity of his advisor's feelings, began to talk to her about how angry he felt that he was being forced to retire by his company before he was ready.