

## Consider This Program

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On This Show:

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### Show Notes:

#### **Topics Include:**

- Conversation with Grant Soliven
- Qualified Charitable Distribution
- Estate Planning
- Statements

#### **Conversation with Grant Soliven**

What's changed in the amount and the length of time that we can borrow from our 401K? Everything from loans to distributions. Those are two separate things and we are seeing confusion being brought by so-called "experts" on this topic. There are no experts on this. Distributions and loans have increased from \$50,000 traditionally to about \$100,000. They work in two separate areas. With loans, if your plan document allows it, you are now able to loan out 100% of your vested balance up to that much larger dollar amount. For distributions, if your plan doesn't allow for a loan because they're not required to, you can still take a distribution of up to \$100,000. The key is you're under 59 and a half under the CARES Act. Because of what's happened with the Covid-19 and you're under 59 and a half, you don't have to pay a penalty for distribution.

This is a combination of IRA money and 401k money working together, right? Those are two dramatically different things. A 401k is a department of labor law. An IRA is not; it does not fall under the DOL rules. You can only do it out of the two. If you have an IRA or if you have a 401k, you can actually take out that \$100,000 distribution, even if you're under 59 and a half, without a federal penalty and pay the taxes over three years. When would somebody do that? Under the CARES Act specifically,



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there's a lot of reasons. Naturally for a job loss or for childcare. For businesses that are functioning and trying to stay afloat, we see this as a great opportunity as a way to release cash and get out of penalty. Then potentially depending on the cash flow, the business uses it for better opportunities.

How does it impact someone whose plan doesn't allow for a 401k loan? Quite frankly, it's not really clear. The loan amounts are growing for the CARES Act. If the plan does not allow loan, they're not required to operate with them. Understand that when you add loans to your time plan, you have to go in and change the plan document itself and that costs a tremendous fee. Maybe Congress and the president didn't want it to be adding costs to businesses in a strange time. The \$100,000 distribution that we can pay tax on over the three years, is essentially wrapped up under hardship distributions.

Is there a difference between a distribution and a loan as far as how it's taxed? As far as taxation, the primary difference between a distribution inside the CARES Act is you're not going to have to pay an early penalty if taking a distribution, but you will still have to pay ordinary income tax on that distribution. Essentially when you take it now, you have until the end of the year, over three years to pay. The tax on a loan is different simply because you're not going to pay tax on it, unless you don't pay the loan back. You have anywhere from three to five years to pay that loan back. Under the new CARES Act, you get a freebie year to start making payments. Interest still accrues because just like in a normal loan.

### **Qualified Charitable Distribution**

Should you keep giving to a charity or save in case you might be laid off? That's a hard question. You only give to missions that you want to support, so do you want the mission to go away? No. Do we have some strategies where you can give all at once, if you wanted to give everything at the end of the year?

You should gift appreciated stock if you have it or a Qualified Charitable Distribution if you're over 70 and a half, as opposed to writing a check. If you're going to write a check which is a cash investment, one of the things that came out of the CARES Act this year is that you can actually give up to 100% of your adjusted gross income. When you make a charitable contribution it only lasts up to five years, so you have to be able to use it over the next five years. Typically in a stock transfer to a church or to a charity you can only give 30% of your adjusted gross income. If you're married filing jointly, it's both of your incomes combined.

Do charitable contributions offset ordinary income or do all deductions offset income? Capital gains are taxed in a different way than ordinary income is or than dividend income. The bottom of page one in the old tax return was your adjusted gross income. There are things that happened above the AGI that we call those "above the line." There's things that happened after the AGI. We call those "below the line."



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Things that happen above the line always matter more than things that happened below the line. That rule is still true today, but when you have a deduction (the standard deduction for you is \$12,000), you get an extra \$1,300 when you turn 65. We can either use a standard or we can use the itemized. If we use the itemized, the three biggies in the itemized world are going to be your state taxes, which are now capped at \$10,000, your mortgage interest and your charitable contributions. If you're not gifting more than \$12,000, or if you're over 65, \$13,300, or if you're married, filing jointly, \$12,600, \$24,600 or \$26,600. If you're not giving that much money, then you're taking the standard deduction, which means: make sure you're using the Qualified Charitable Distribution.

What's the best way to leave a charitable donation after you're gone? The ideal way under the current tax code we have today. The one thing that you do not want to do is leave a charity inside of your trust or inside of your will, if you have an IRA or a 401k. Make sure you're talking to your tax advisors, your financial advisors, your gurus.

### Estate Planning

When you're talking about your remaining estate, does it have to be divided equally? No. Barb gets half. If you don't know, Barbara's my wife, we've been married for 31. When you look at your 401k, the beneficiary has to be my spouse unless Barb signs off on it now. Everything else I could leave to you right now. She can go to court and in 49 States out of the country she can ask for half back. Right. Spouses are always entitled to half, except for in Louisiana. They're under a thing called Napoleonic law and nobody really knows for sure what happens. There's no such thing as having to pay alimony in Indiana. People move to Indiana who don't want to pay alimony, especially under the new tax changes that came out of 2017, effective for 18. It's not deductible anymore. It's not taxable to you.

If we took that same question - does it have to be divided equally? - and talked about what you're leaving to your children.

Siblings, it still does not have to be left even. Say you have a child that is autistic and they get benefits from the government. The last thing that I want to do is leave money behind in a trust for them. That is going to interrupt the government proceeds. They would take those funds back. There's a trust called a special needs trust that would protect them from that. The trust is written in such a way that it pays you everything that you need and everything that you don't need; it'll pay for all of the stuff that the government doesn't consider a need or a requirement.

The second thing then is you've got a kid that is under 30. I am very cautious about leaving money behind for people who know nothing about money or what's going on in the world financially. I don't want people below 30 to get a bunch of money all at one time because they make mistakes. My trust is



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written in a way so that they get money over a 10 year period of time, at three distinct periods. You know, if they're over 30, they get one third and five years later they get one third, five years after that they get the final third. They had three chances to screw up.

What happens if you've got somebody who is an alcoholic, drug addicted or a gambling addict? You want to help them. You want to love them. They're still your child. That's when you have to be very careful who your trustee is and how that money is doled out to take care of a trust or a will. Would that override the beneficiary designation? You can't give away what you don't own. If you have a beneficiary designation that says that this goes to Angie and my will or my trust says that goes to Barb, Angie wins. The trust never owned it to give away.

### Statements

I've been reading statements for 32 years and they didn't used to look like what they look like now. Why do you suppose you get a statement? What is a lagging indicator? It's when you get the results after something has already happened. What's a leading indicator? A leading indicator are new leads. When I get my statement in the mail, is that leading or lagging? Lagging. Absolutely. It's already over. This has already happened. Your tax report? Yes. Why does Wall Street want me to send you a statement?

There was this Italian guy named Grasso that ran the New York Stock Exchange. He became the president in 1995, back then you got one 401k statement a year. You got one brokerage account statement a year, unless you had activity in dividends. In 1980 we created these 401k plans, called defined contribution plans. I can't manage your money if I don't know what you own. It's one of the reasons I don't like mutual funds. IRAs and 401ks took off and you were convinced that you were qualified to manage your 401k. In 1995 Grasso went to the SEC and said there is no way Joe, Adam and Andrew could do their job if they didn't know what I owned. That's true. He convinced the SEC that we should send you out these statements on a regular basis. You get this lagging detailed information. It's always Jerry McGuire at the end of the day: "show me the money."

How did wall street get paid? Each time a trade is made, there is a bid price and there is an ask price. It's called the spread. Wall Street gets paid on activity. There were more stocks available for trading in 2000 or 1995 than there are today.

The volume, however, went from 200 million shares a day to well over 2 billion (usually closer to three and a half, 4 billion a day). The volume went up 10 times at least and the number of companies actually decreased. The only thing that happened is you got more information, which you think leads to a better decision because that is what we're taught in schools. When you have more information, you can make better decisions. Those statements are bad for you. It doesn't mean you shouldn't read them.



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*Disclaimer: Joseph Clark is a Certified Financial Planner™ and the Managing Partner of Financial Enhancement Group, LLC an SEC Registered Investment Advisor. He is the host of "Consider This" found on WIBC Saturday mornings from 6-7a.m. as well as three other Indiana-based radio stations. Joe has served as an Adjunct Assistant Professor at Purdue University where he taught the capstone course for a degree in Financial Counseling and Planning.*

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