ASPIRIANT

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Where There's a Will, There's a Way…

In January 2009, the U.S. and global economy was on the precipice: the international financial system was in near-meltdown, global unemployment was soaring, world trade was in a freefall, the housing market was devastated and economists were warning that a turnaround was nowhere in sight. Governments faced the prospect of widespread social instability and popular unrest. Ominously, historians were recalling that the Great Depression had set the stage for World War II. In fact, in February of 2009, the director of national intelligence, Dennis Blair, told the U.S. Congress that the global economic crisis had replaced terrorism as "the primary near-term security concern of the United States."

What a difference a year makes. As 2010 begins, we are starting to see signs of a recovery, including a growing global economy that appears to have accelerated in the fourth quarter. Unemployment has leveled off, world trade has picked up, businesses are starting to invest again, consumer confidence and spending are on the rise and the housing market is more stable. In addition, intelligence officials are no longer describing global economic problems as the paramount U.S. security concern – even as an apparent Al-Qaeda attempt to take down a Northwest Airlines jet on Christmas Day reminds us that terrorists are an ongoing threat. Looking back, the biggest economic story of 2009 may well be what did not happen – the Great Recession of 2008-2009 did not, in fact, lead to another Great Depression.

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Just over a year ago, the bankruptcy of Lehman Brothers pushed the already weary financial markets to the brink of collapse. Credit markets simply stopped functioning and the markets looked to the government for some policy response. Looking back a year later, that response (despite a few flaws) was very effective. In fact, in contrast to the Great Depression, the decline was halted within months by an extraordinary coordinated worldwide governmental response to the financial crisis. Big banks were rescued with a multi-trillion-dollar life raft of public cash and guarantees, and central banks around the world slashed interest rates while embracing creative strategies and dramatic expansions of their balance sheets. In addition, this global monetary response was accompanied by tremendous global fiscal stimulus which accomplished the goals of stopping the panic, stabilizing the financial system and offsetting a good measure of the collapse in private economic activity. Big emerging economies recovered first and fastest and by mid-year, most of the developed world had started to expand again. As the New Year begins, only a few are still in recession.

Governments around the world showed us in 2009 that they've learned what doesn't work when combating a deep recession – overly tight monetary or fiscal policies and beggar-thy-neighbor protectionist measures. The impact of this global financial crisis was significantly limited because on each of these fronts, the policy mistakes of the past were strenuously and knowingly avoided. When all of this is committed to the history books, we believe the primary lessons will center on the power of coordinated government intervention, their determination to do what was necessary and the robustness of the human spirit – not just the boom-bust tendencies of the global economy or the extent of human greed.

Despite our positive outlook, we're keenly aware that the collateral damage of the bust remains in plain sight. After their gut-wrenching plunge, capital markets are still not close to regaining their 2007 peaks. Unemployment in the U.S. has doubled to 10% and home foreclosures have decimated communities across the country. Perhaps the biggest and most damaging casualty of the Great Recession has been confidence in the future, particularly in the ability of the U.S. economy to grow and compete.

But in retrospect, 2009 will likely look more like a puffed-up version of prior recessions rather than something without precedent. Once again, the peak of fear and uncertainty in March turned out to be – at least for now – simply a market bottom. And once again, fears of the U.S. becoming irrelevant appear overblown. To rebut that concept, we refer you to the comments made by a panel of clients – including one whose company recently broke ground on a $4.2B semiconductor plant in upstate New York – that recently shared their perspectives on how innovation and globalization will continue to drive growth in the U.S.

As we look ahead, we are confident the global economy will recover. We share a view that global economic fundamentals support a high probability of good long-term investment performance, regardless of what short-term gyrations occur. The source of our confidence is an overarching belief in the power and *will* of the human spirit, which has always proven to be stronger than any events which attempt to destroy it. The power of creativity and innovation, expressed through the efforts of free, well-educated individuals applying scientific knowledge and human ingenuity to the development of new technologies, products and services designed to improve material well-being, appears unstoppable. John Maynard Keynes articulated this belief in the 1930's, and he predicted then that the standard of living in advanced capitalist countries would increase by a factor of four to eight over the next century. In fact, in the nearly eighty years since 1930, the per capita gross domestic product in the United States, adjusted for inflation, has increased by a factor of six.

We believe the potential for material advance is no less abundant in the United States today than it was two years ago or even eight decades ago during the Great Depression. We also believe U.S. business will continue to enjoy the net benefits of increased "globalization" as hundreds of millions of people across the globe, especially in developing economies, evolve into full-fledged participants in the global economy. The recovery may be subdued and may take longer than we would like but because past is prologue, the upheaval of 2009 will surely pave a path for an even brighter future.

The articles in this quarter's Insight provide additional perspectives on the past year and our expectations for the future. Our Chief Investment Officer, Jason Thomas, explains why, despite the incredible government response, we shouldn't expect runaway inflation anytime soon. We have also provided a legislative income and estate tax update, guidance on whether a Roth IRA conversion is for you and suggestions for how to mitigate the risks associated with participating on a Board.

Rob Francais
Interim Editor

Message from the CEO: Lessons Learned During the Loss Decade

To put it mildly and simply, 2009 was a challenging year to be an investor. But as difficult as that was to endure, the experience of the past decade was, arguably, even worse. Since 1999, the United States has endured two wars, two recessions, 9/11, and the worst natural disaster in our nation's history – Katrina – which almost completely wiped out a U.S. city. As if that weren't enough, a series of financial shocks greatly tested investors' faith in the integrity of the markets, including pervasive corporate accounting scandals, significant regulatory lapses that contributed to the demise of major financial institutions, and the discovery of some of the most extraordinary Ponzi schemes of all time. No wonder the S&P 500 experienced its first "loss decade" since its inception, when $100 invested on January 1, 2000 shrank to approximately $90 ten years later – an annualized total return of -0.95%. And that includes dividends.

The S&P 500's Annual Returns:

	Price change	Total return
Jan. '26 – Dec. '29	19.64%	19.64%
1930s	-5.26%	0.97%
1940s	2.98%	8.73%
1950s	13.58%	19.21%
1960s	4.39%	7.75%
1970s	1.60%	5.88%
1980s	12.59%	17.55%
1990s	15.31%	18.21%
2000s	-2.72%	-0.95%

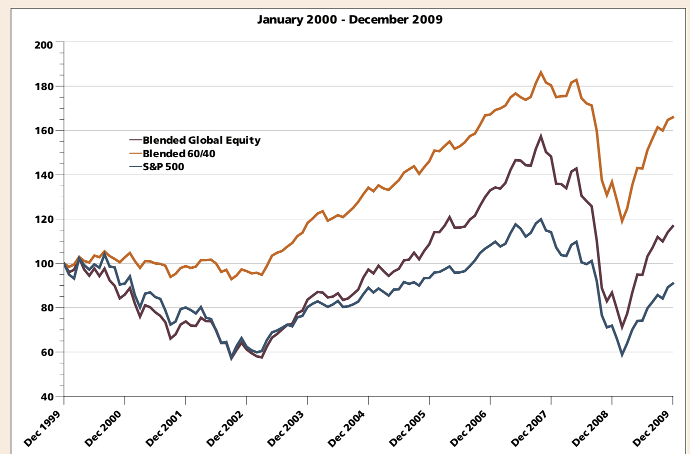
Source: Standard & Poor's indices

While 2009 and the nine years that preceded it were difficult to stomach, they did provide investors with a golden opportunity to learn an invaluable lesson about their own tolerance for risk – something that is difficult for them to know in advance, and is difficult for advisors to truly simulate during the investment education process. From our viewpoint, the experience also highlighted the merits of two fundamental principles of investing: the importance of having a durable financial plan and the benefits of broad diversification.

We would assert that it is virtually impossible for someone to truly assess, measure, or predict, with any real accuracy, their emotional response to an adverse future financial event, especially their reaction to a precipitous and severe market downturn that inflicts a significant loss of resources. Many of us have lived through prior downturns (1973-74: -42.6%; 1987: -29.5%; 2000-02: -44.7%). But did we learn immutable lessons about ourselves through those experiences? For advisors, ascertaining and measuring risk tolerance has always been more "art" than "science" and has always been heavily influenced by the accuracy of clients' input. Still, today, with the bruising experience of the past two years fresh in our minds, we believe clients and advisors are in a better position to properly incorporate tolerance for volatility into long-range financial plans. We are also in a better position to identify the type of education that might be useful in order to confirm or create a durable financial plan, something that Aspiriant has been busy addressing in client meetings and through special events like the panel discussions we hosted in October.

During this past decade we also observed that investors who diversified their assets and embraced a disciplined, long-term posture experienced a much better result. To illustrate the benefits of diversification, we have put together a simple chart that shows the results of three different portfolios over the period:

1. The S&P 500;
2. A Blended Global Equity Portfolio; and
3. A 60-40, Equity-Fixed Income Portfolio.



Source: Zephyr Style Advisor

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Letting the Air Out of Inflation Fears

Judging from our clients' questions and news headlines, inflation anxiety goes beyond the typical concerns about Fed policymakers falling behind the curve as the economy recovers. The unprecedented government response to the deep recession has stoked fears of a fundamental shift away from the low and stable inflation environment that has prevailed since the early 1990s. Some fear that the United States could slip into a Japanese-style deflation, while others warn of a return to 1970s-style stagflation. The possibility of these scenarios has critical implications for investors.

Spare capacity is likely to cause disinflation in 2010

In traditional macroeconomic analysis, inflation (defined as a sustained, broad-based increase in prices) results from: (1) excess demand for goods or services relative to their supply ("demand pull"); (2) higher input prices ("cost push"); or (3) the expectation of future inflation which becomes embedded in pricing and wage negotiations.

The most important factor in the domestic inflation outlook is the amount of spare capacity in the U.S. economy. Spare capacity in an economic sector has had a statistically significant link to future inflation in that sector and is reflected in measures like the manufacturing capacity utilization, hotel occupancy, multi-family rental and office vacancy, and unemployment. Growth in the money supply is translated into inflation only to the extent that the money is spent on scarce goods and services. With spare capacity in the United States currently near record highs (see Table 1, right) in nearly every part of the economy, it is unlikely that demand will outstrip supply and result in inflation pressure.

With the possible exception of commodities, input costs do not look like a major inflation risk either. The biggest single cost for most businesses is labor. With unemployment at 10%, wage growth has slowed dramatically and typically continues to slow well after a recession ends. In the context of a recovering world economy and substantial monetary and fiscal stimulus, some increase in commodity prices is clearly possible. But commodity price spikes, if not accompanied by broad-based increases in incomes and spending, are inherently self-limiting. Other than in the mid-1980s, a year-over-year oil price increase of more than 50% has resulted in recession — except in the most recent economic expansion, where households managed to endure a five-year, more than three-fold increase in crude oil prices with the help of rapidly expanding credit and mortgage equity withdrawal.

Table 1

Sector	Current level (%)	Long-term avg (%)	Data since
Goods sector			
Manufacturing capacity utilization	66.6	80.9	1948
ISM manufacturing operating rate	67.0	82.6	1985
Mining capacity utilization	82.2	87.3	1967
Service sector			
ISM non-mfg operating rate	80.1	86.1	1998
Hotel occupancy rate*	56.4	62.5	1987
Idle large commercial aircraft	8.4	5.4	1975
Utilities capacity utilization	78.7	87.7	1967
Housing/real estate sector			
Rental vacancy rate	10.6	7.2	1956
Owner-occupied vacancy rate	2.5	1.5	1956
Office vacancy rate	16.5	15.1	1986
Industrial vacancy rate	12.4	7.8	1981
Retail vacancy rate	17.6	13.9	1982
Labor market			
Unemployment rate	9.7	5.6	1948
Underemployment rate**	16.8	9.3	1994

** Seasonally adjusted by Goldman Sachs using Census X-12 procedure*
*** Labor Department's "U-6" unemployment rate*

Finally, current inflation expectations do not offer much reason for worry. From the household perspective, the latest Michigan survey of consumer sentiment reported median expectations of 2.8% over the next 5-10 years, just below the 2.9% average of the past decade. Meanwhile, investors' expectations have been normalizing, with estimated inflation break-even rates for Treasury Inflation Protected Securities under 2%.

Analogies to historical high-inflation episodes are misleading

Debates about the inflation outlook with clients or in the media often lead to an assessment of historical parallels – why the current situation is, or is not, like past experiences. The most frequent analogy we hear is the "stagflation" of weak growth and high inflation in the US economy in the 1970s.

The recent economic environment in the United States has included volatile commodity prices, big federal deficits, and (in 2008) high headline inflation during a recession. These superficial similarities with the 1970s, combined with a weak growth outlook, suggest to some observers that we are in for a return of stagflation.

But with respect to factors related to inflation, the differences with the 1970s are far bigger than the similarities. The inflation

of the 1970s was born in the "guns and butter" policies of the 1960s, with expanding military expenditures in Vietnam and domestic expenditures on "Great Society" initiatives. Growth accelerated and the unemployment rate touched a record low of 3.4% in late 1968. By that measure, spare capacity was at record lows in contrast with today's near-record highs. Tight capacity, narrower profit margins, greater prevalence of collective bargaining in wage negotiations, and other factors such as greater unionization and indexation of wages fostered a broad-based wage-price spiral. Core inflation, wage growth, and inflation expectations accelerated from around 2% in the early 1960s to 6% in 1970.

When the Nixon price controls were lifted beginning in 1973, inflation surged, exacerbated by the sharp rise in oil prices. By this time, inflation had become embedded in household and business expectations. The problem of high inflation expectations was not resolved until the severe double-dip recession of 1980-82. Today, again in contrast with the 1970s, inflation expectations are near all-time lows.

Deflation is the bigger near-term risk…

Over the last 50 years, periods of disinflation invariably followed the end of a recession, so it would be natural for inflation to trend down over the next several years. If there were to be a big surprise in the next few years, the case for deflation looks stronger than for high inflation. Spare capacity could remain elevated well into the next decade if the U.S. and the other developed market economies experience a muted recovery, let alone a "double-dip" recession. This could eventually pull core inflation and inflation expectations into negative territory, reinforcing a downward spiral.

…but a deflationary spiral will be avoided.

The U.S. outlook has worrying similarities with Japan's "lost decade" of stagnation and deflation, which also began with a bursting asset bubble and featured a full-blown banking crisis. However, the United States is dealing with a considerably smaller bubble (the Japanese stock market's P/E ratio exceeded 50 at its peak versus a ratio under 20 in the U.S. market now) and has pursued a far more aggressive policy response. Rapid stabilization of the economy and financial system, combined with low and stable inflation expectations (thus far) should help the economy avoid a significant shift toward either inflation or deflation.

Our inflation expectations have important implications for asset allocation

Analysis of asset performance during episodes of inflation and deflation are limited to a few specific historical instances and are clouded by other factors. However, the differentiation between inflation scenarios is very clear. Bonds and cash outperform during deflation; equities or real assets hold value during periods of problem inflation. Due primarily to concern about paper currency, gold has outperformed on a relative basis in all of these undesirable inflation regimes, as it did in the most recent period leading up to the financial crisis.

While we are reluctant to make large tactical shifts in asset allocations, our portfolio recommendations reflect our expectations (described above) for economic and capital market performance. Responding to steep yield curves and credit spreads, our fixed income implementation uses bonds with longer duration and lower credit quality. The much higher yields on these bonds provide a cushion against rising interest rates and inflation. We believe that real estate and public equities, because of their higher growth potential and direct link to the sources of inflation, provide the most reliable protection against the long-term erosion of purchasing power. Finally, our commodity implementation, which includes an allocation to gold, protects against a commodity price spike while pursuing an opportunistic trading strategy which has paid handsomely in the oil and natural gas futures markets.

Jason Thomas, PhD, CFA
Chief Investment Officer

Legislative Update: Enjoy the Bush Tax Cuts While They Last

As we head into 2010, there seems to be very little good news on the horizon for wealthy taxpayers. Due to the temporary nature of the tax cuts passed during the Bush Administration and new initiatives being pushed forward by the Obama Administration, Congress is likely to enact legislation this year on personal income taxes, health care reform, and the estate tax, all of which may have an impact on most of our clients' pocketbooks. Below we summarize the current consensus on income tax rates that will likely prevail starting in 2011, mention a few tax planning strategies worthy of consideration for many of our clients, and comment on the direction of possible surcharges Congress is considering to help pay for health care reform. Later in this Insight, Clay Stevens discusses the outlook for estate tax reform, which many observers believe will be made retroactive to January 1, 2010.

Income Taxes

The chart below summarizes marginal income tax rates for 2010, accompanied by two scenarios for 2011: the rate structure proposed by President Obama; the rate structure that will be resurrected if Congress fails to act, the Bush tax cuts expire, and tax law reverts to 2000 rates.

As you can see, under both scenarios, taxpayers in the top two brackets are facing a future with higher rates on ordinary income, long-term capital gains, and qualified dividends. In fact, other than the treatment of qualified dividends (Obama's proposal would continue to tax them at favorable long-term capital gains rates as opposed to ordinary income rates), for wealthy taxpayers, the two scenarios are currently identical for taxpayers in the top brackets. As we write this update, it appears that this consensus view is very likely to become law. That said, the need to reform the AMT, address the deficit, and the normal machinations that occur as a large tax bill works its way through Congress could result in further changes that are hard to predict.

With the direction of tax rates for the "wealthy" pretty clear—they're going up—this year's *debate* in Congress will likely focus on tax rates for the "middle class." President Obama campaigned on a promise not to raise taxes for families earning less than $250K and individuals earning less than $200K. But that promise was made in 2008, and could prove very hard to keep in an environment characterized by a recovering, but still weak economy, budget deficits moving quickly toward record levels, and funding for health care reform still not completely resolved.

Moreover, legislative inaction also has consequences: the chart highlights that if Congress fails to act this year, even taxpayers in the lower income tax brackets will see significant tax increases in 2011 when the Bush tax cuts expire. President Obama and the Democratic majority in Congress thus face competing priorities of keeping campaign promises and demonstrating fiscal responsibility, with mid-term Congressional elections ahead this fall. Stay tuned, it's going to be a very interesting year…

Implications of Higher Income Tax Rates

In 2010, the final year of the Bush tax cuts, some interesting planning opportunities arise for wealthy taxpayers. Over the course of the upcoming year, your Aspiriant client service team will work with you to determine if any of the following strategies make sense for you, given your specific facts and circumstances.

- Accelerate income into 2010, and defer deductions into 2011
    - Claim income from Roth IRA conversions in 2010 rather than deferring recognition to 2011 and 2012 (refer to the Roth IRA article on page 8)
- Diversify concentrated positions in 2010
- Reposition equity investments to take advantage of tax-managed strategies
- Reposition fixed income investments towards municipal bonds

Health Care Reform

Congress appears poised to pass sweeping health care reform legislation early in 2010. As Congress begins its work reconciling the House and Senate versions, it's not yet clear

2010 Taxable Income		Marginal Tax Rate								
		Ordinary Income			Long Term Capital Gains			Qualified Dividends		
			2011			2011			2011	
MFJ	Single	2010	Obama Proposal	If Bush Tax Cuts Lapse	2010	Obama Proposal	If Bush Tax Cuts Lapse	2010	Obama Proposal	If Bush Tax Cuts Lapse
< $17K	< $8K	10%	10%	15%	0%	0%	10%	0%	0%	15%
< $68K	< $34	15%	15%	15%	0%	0%	10%	0%	0%	15%
< $137K	< $82K	25%	25%	28%	15%	15%	20%	15%	15%	28%
< $209K	< $172K	28%	28%	31%	15%	15%	20%	15%	15%	31%
< $374K	< $374K	33%	36%	36%	15%	20%	20%	15%	20%	36%
> $374K	> $374K	35%	39.6%	39.6%	15%	20%	20%	15%	20%	39.6%

(*continued from page 3*)

As the chart shows, if you had invested $100 in a Blended Global Equity portfolio (45% Russell 3000, 45% EAFE, and 10% MSCI Emerging Markets) on January 1, 2000 instead of investing in the S&P 500, you would have had approximately $118 at December 31, 2009 – an additional $28, a 31% improvement over the S&P 500 investment. Taking it a step farther, had you diversified the portfolio further by investing 40% of your assets into fixed income and 60% into the Blended Global Equity allocation (as outlined above), you would have accumulated approximately $163 at December 31, 2009, an additional $73—81% more than the S&P 500. Our investment research, and the portfolio recommendations it generates, reflect diversified participation in the global economy and the relationships between asset classes, particularly during times of stress.

Of course, as dismal as the returns are in the above chart, those returns assume that the investors were patient – or at least disciplined - during this volatile period and that they remained invested the entire period. As we know, this is not always the case. Consider, for example, that the decade's *best-performing* U.S. diversified stock mutual fund, the CGM Focus Fund, rose more than 18% annually in the ten years ending 12/31/09, yet the average investor in the fund *lost* 11% annually, according to Morningstar. Sadly, this stark difference between fund performance and actual investor experience is common and is explained by the emotional behavior of investors who try to "time the market" and invariably get it wrong. Instead of investing in the fund as a long-term proposition, the majority of investors ended up buying when the market was high (they were chasing past performance) and selling when the market was low (when things got uncomfortable). This investor behavior is typical during periods of market volatility and highlights the importance of having a well reasoned, durable strategy that allows one to be patient and to persevere through periods of economic uncertainty. Warren Buffet has it right when he says "uncertainty is the friend of the seeker of long-term values."

For the people of Aspiriant, 2009 was challenging but also incredibly rewarding. The events of the past year provided a unique opportunity to help our client families navigate through uncharted territory and set a course toward achieving their goals. For this opportunity to serve and do what we do best, we are very grateful. Rarely, has there been a better opportunity to create value for our clients. In addition to implementing our clients' plans, we were able to exploit the low interest rate environment and depressed asset values to engineer intergenerational transactions involving an estimated $150 million (which have experienced material gains in the ensuing market rally) while also capturing valuable tax losses in excess of $50 million during the first ten weeks of the year, in addition to the hundreds of millions of dollars of losses captured in 2008. In some respects, it was a great year for making lemonade out of lemons!

On behalf of your entire team at Aspiriant, we thank you for your support and look forward to applying the lessons we learned this year, improving our service offering for you, and serving your needs for generations to come.

And now, on to a brighter and more prosperous 2010 - Happy New Year, everyone!

Rob Francais
Chief Executive Officer

what the impact that legislation will have on individual income and other tax rates.

Our comments here are focused on the major revenue raising provisions directly impacting individuals, as passed by the House and/or Senate in their respective bills.

- The House bill specifically imposes a surcharge of 5.4% on income above $500K for singles and $1M for couples, beginning January 1, 2011.
- The Senate bill contains no such provision, but does impose a higher Medicare tax rate from 1.45% to 1.95% on wages over $200K for individuals and $250K for couples beginning in 2013.
- In addition, the Senate bill includes a 40% excise tax on so-called "Cadillac" health plans, defined as employer sponsored group plans with premiums equal to or greater than $8,500 for individuals and $23,000 for families, to commence in 2013.
- Both House and Senate bills limit pre-tax contributions to flexible spending accounts to $2,500.
- The Senate bill increases the AGI threshold for claiming the itemized deduction for medical expenses from 7.5% to 10%.

None of these provisions are law yet, and modifications will surely occur during the reconciliation process, but some version of the above items will likely be heading to President Obama's desk soon.

Karen Blodgett and Tom Tracy

Is a Roth IRA Conversion for You?

Congress devised the Roth IRA in 1998, creating a novel option for taxpayers to pay tax currently in order to exempt some assets from the income tax system down the road. But Congress created a *Catch 22* situation by setting income limitations on who qualified for the Roth opportunity. If you could afford "to Roth," you generally weren't eligible; and if you were eligible, it was generally difficult to afford to take advantage of the opportunity.

Beginning in 2010, however, the rules change such that anyone with a traditional IRA is eligible to convert any or all of it to a Roth IRA. Anyone who is willing to pay income taxes currently on those assets converted to a Roth IRA can now have an investment account that remains outside of the income tax system for at least a generation.

While we expect many clients will find this new opportunity compelling, it won't be a "no brainer" for everyone. Consequently, we plan to work with each of our clients early in 2010 to explain the opportunity and thoroughly evaluate whether and how much of their existing traditional IRA assets to convert to a Roth.

In the interim, we present here some of the nuts and bolts of the tax rules, and considerations for conversion opportunities.

Roth IRA v. IRA – The Basics

Operationally, a Roth Individual Retirement Account ("IRA") is much like a traditional IRA. Both are available to individuals who receive taxable compensation (i.e. salary, wages, commissions, self-employment income) and the rules regarding the timing and amounts of contributions are similar. Early distributions (before age 59 ½) from either account are subject to both ordinary income tax and an additional 10% penalty tax.

IRA (including Roth IRA) Contribution Limits		
Year	Age 49 & Below	Age 50 & Above
2008	$5,000	$6,000
2009	$5,000	$6,000
2010	$5,000	$6,000

However, there are significant differences in the income tax breaks offered to the owners of these accounts.

Traditional IRAs

Contributions to traditional IRA accounts may or may not be deductible depending on whether the owner or spouse participates in an employer's qualified retirement plan, and subject to income limitations. Nondeductible contributions may be made regardless of income level. At age 70 ½, traditional IRA owners can no longer make contributions and are required to begin withdrawing minimum amounts determined by the value of all traditional IRAs held and IRS life expectancy factors. Account earnings are untaxed until distributions are made, at which time the deductible portion of contributions and 100% of earnings are taxed as ordinary income.

Roth IRAs

Roth IRA contributions can be made regardless of age. However, they are never deductible and cannot be made if the owner's or spouse's income exceeds certain limits (although after 2009, the income limitations for IRA *conversions* no longer apply). Distributions are non-taxable, provided the funds have been in the account for at least five years and the owner is at least age 59 ½. Roth IRAs can be especially effective in passing wealth to future generations because the minimum distribution rules that apply to traditional IRAs do not apply to Roth IRAs (resulting in longer tax-free compounding) and the eventual distributions to account beneficiaries after the owner's death are non-taxable.

Converting Traditional IRAs into Roth IRAs

Until now, an individual with adjusted gross income (subject to some modifications) in excess of $100,000 and married taxpayers who file separate returns have not been eligible to convert assets from traditional IRAs into Roth IRAs. However both the income and filing status restrictions are eliminated after 2009.

Principal Objectives

The two principal objectives of converting a traditional IRA into a Roth IRA are to avoid income tax on the IRA earnings that accrue after the conversion and to avoid having to make required minimum distributions after reaching age 70 ½.

Best candidates

In consideration of the available tax benefits, the best candidates for conversions will generally be those persons who:

- will not need to distribute the converted assets for at least five years
- have sufficient non-IRA assets from which to pay the conversion tax
- do not expect a significant decline in their effective tax rate

in retirement, and
- do not plan to donate the IRA to charity.

Tax Consequences of Conversions
Taxpayers who convert assets from a traditional to a Roth IRA will be taxed on the portion of the transfer that represents pre-tax (i.e. previously deducted) contributions and earnings. Conversions that occur in 2010 (only) will not be immediately recognized as taxable income. By default, the conversion income realized in 2010 will be recognized in two equal installments on the owner's 2011 and 2012 federal income tax returns. Alternatively, a taxpayer may elect to report all of the income on his 2010 income tax return.

Conventional wisdom generally directs taxpayers to defer recognition of income. However, because tax rates are widely expected to increase from current levels after 2010, most clients who choose to convert an IRA in 2010 will benefit from waiving the special income recognition rule and instead recognize the conversion income in 2010.

The rules allow for conversion of any portion of the traditional IRA to the Roth. For clients whose IRAs represent a large portion of their portfolios, partial conversions will probably make the most sense.

Generous "2nd Look" Opportunity
If the value of converted assets decline, or a taxpayer decides to undo all or part of a conversion for any other reason, he can elect to reverse the conversion in a transaction the IRS calls a "recharacterization". There is no income tax cost for a recharacterization and taxpayers have until the extended due date of the income tax return for the year the conversion occurred to make this election. Therefore, the final date to reverse 2010 conversions will be October 17, 2011. To maximize the benefit of this 2nd look opportunity, we will encourage clients to engage in the Roth analysis in the first half of 2010.

To simplify the analysis of the conversion and the execution of potential recharacterizations, we recommend depositing the assets from Roth IRA conversions into a new account rather than into an existing Roth account. After the deadline for recharacterizations has passed, the Roth accounts can be combined.

Recharacterized assets can again be converted into a Roth IRA after the later of:
- January 1 of the year after the original conversion or
- 30 days after the date of the recharacterization.

Other Tax Considerations
Traditional IRA owners who reach age 70 ½ prior to converting those assets into a Roth IRA will still be required to withdraw their required minimum distribution ("RMD") for that year.

Estimated tax planning should include an analysis of whether income tax withholding and/or estimated tax payments should be adjusted to reflect the impact of a Roth IRA conversion.

Taxpayers are advised to check the laws of their resident state to determine whether, and to what extent, the post-2009 IRS tax provisions will apply to their state income returns. California, for example, has not yet conformed to any of the special post-2009 IRS provisions discussed previously. However, it is our expectation that most states will conform, at a minimum, to the elimination of the income threshold for Roth IRA conversions.

Aspiriant's plan for clients
Since we expect most clients to benefit from at least a partial conversion of their traditional IRA to the Roth, we anticipate executing a large number of conversions. In order to keep the process manageable, we plan to talk with clients and execute conversions during the first quarter of 2010 (to maximize the "2nd look" opportunity). Assuming most clients will elect to recognize the income in 2010, estimated tax payments may be due for the quarter when the conversion occurs. If you have not already heard from your client service team with regard to your own situation, you can expect to hear from them sometime in the first quarter.

Ray Edwards, Kacy Gott, and Clay Stevens

Ensuring That Good Deeds Go Unpunished (Mitigating Risks When Serving on Non-Profit Boards)

Whether from a sense of responsibility to the community at large or the opportunity to combine the passion for a particular non-profit organization with managerial or fund raising skills, sooner or later many clients find themselves sitting on a non-profit's board of directors. Unfortunately, despite some legislative protections, sitting on a non-profit board can expose an individual to liability risks. To help ensure

that these organizations and our clients are able to continue pursuing "the mission," we recommend conducting a risk assessment. Such an assessment should help all parties – the board member and the organization – understand the threats they could face from a lawsuit related to board service and the costs and limitations of insurance to mitigate those threats.

Good Managerial Practices Can Mitigate Some Risk

Non-profit organizations face liabilities that are substantially the same as those facing their for-profit brethren. Potential liabilities can include employment related lawsuits, claims of financial mismanagement and breach of a fiduciary duty.

For example, while non-profit organizations rely on the hard work of a network of volunteers and their interactions with the public, those volunteers are still considered employees, giving the non-profit exposure to employment related causes of action such as wrongful termination, discrimination and harassment, claims of financial mismanagement, and claims of breach of a fiduciary duty in addition to personal injury (libel, slander) and property damage.

Good management practices can help mitigate potential liabilities that are within the organization's control. For example, a meal delivery organization should make sure that the drivers delivering food have valid driver's licenses and good driving records. Similarly, by working with a reputable collector or dealer when adding to its collection, an art museum might forestall a claim of theft by the country where the treasure originated. Unfortunately, all risks cannot be anticipated or managed.

Volunteer Immunity Laws Do *Not* Prevent Lawsuits

The Volunteer Protection Act enacted by Congress in 1997 ("VPA") was both lauded as a way to encourage volunteers (including board members) by limiting lawsuits against them and vilified for providing a road map for attorneys seeking to bring effective lawsuits against volunteers and non-profits. In fact, some states have enacted laws that provide additional protection to volunteers and non-profits over and above the protection provided by the VPA.

Nevertheless, relying exclusively on these laws to protect a volunteer or board member is analogous to not wearing a seat belt while driving a car and hoping that the car's air bag will provide enough protection. Volunteer immunity laws don't prohibit bringing legal action even if they might bar an eventual claim. In the meantime, board members and the charity itself could face large expenses defending a lawsuit even if an award on such action is never made. Directors and Officers (D&O) liability insurance coverage can provide extra protection not provided by federal or state law.

Evaluate Your Non-Profit's Directors and Officers (D&O) Liability Insurance

Non-profit D&O policies are designed to protect a charity's directors and officers against costs associated with defending employment related lawsuits, claims of financial mismanagement and breach of a fiduciary duty and possible losses from adverse judgments. When evaluating a D&O policy, some of the issues to consider, with the help of a competent insurance agent, include:

- What is the financial rating of the insurance carrier providing this coverage? Generally, we recommend carriers with an A+ or A++ rating from A. M. Best (www.bestreview.com).
- Does the agent/agency have expertise in the field of non-profit insurance work?
- Is the policy a "claims-made" policy? This type of policy covers lawsuits *filed* during the policy period, even though the cause of action might have occurred prior to the insurance being in force. If the coverage is cancelled or not renewed and then a lawsuit is filed, the director and organization won't be covered, absent an "extended reporting period" rider.
- Is the policy an "occurrence" policy? This covers lawsuits whose cause of action occurs while the policy is in force.
- What are the policy limits? Multiple claims can exhaust policy limits. Some states have specified minimum limits for all 501(c)3 organizations.
- Is defense coverage within, or in addition to, policy limits? Having defense coverage in addition to policy limits provides greater coverage and, conceivably, greater incentive for the insurance company to vigorously defend a lawsuit.
- Does the policy allow the insurance company or the non-profit to select the attorney?
- Does the policy have a "failure to provide insurance" exclusion? Such an exclusion removes coverage for lawsuits by alleging that the director or organization did not purchase either the correct insurance or sufficient insurance. If possible, have this exclusion removed.
- If changing insurance policies or carriers for a "claims-made" policy, make sure the new policy's retroactive date for coverage is far enough in the past to protect against an uninsured claim.
- Is the employment-related coverage appropriately broad or narrow? An "Employment Practices Liability" rider may be available and appropriate.

Assess Your Personal Excess Liability Coverage

Take particular care to understand the extent to which your individual excess (umbrella) liability policy covers your non-profit board activities. Some umbrella policies extend liability

protection to non-profit board members for specific perils such as bodily injury, death, personal injury (libel/slander) and property damage to others – expanding the coverage limits provided by the organization. Some insurers, typically those focused on the high net worth market, offer very broad coverage for "actions or failure to act" as a non-profit board member. On the other hand, policies offered by more mass market insurers typically do not extend liability protection to non-profit board member activity and only offer additional coverage at a separate price. However, it's important to bear in mind that such additional coverage typically sits on top of any primary D&O coverage carried by the non-profit. If the non-profit has less than the required D&O coverage, the board member would be out-of-pocket for the difference between the non-profit's actual coverage and any required minimum coverage amount.

Contributing your time and talents by serving on a non-profit organization's board ought to be a rewarding experience. To that end, be sure to discuss your board positions with your Aspiriant client service team so we can help ensure that you and your organization have appropriate and cost effective insurance in place.

Brett Gookin

Estate Tax Law Update

It's actually happened! Due to Congressional inaction - some would say gross irresponsibility - the current estate tax rules changed dramatically on January 1, 2010 as the unified exemption amount (the amount one can pass estate tax-free at death) became unlimited. The catch, unfortunately, is that a taxpayer has to pass away during 2010 to take advantage of this benefit as the current law expires on December 31, 2010 and the estate tax rules revert to the very unfavorable law in effect in 2001. Further, one cannot take advantage of the new unlimited exemption amount by lifetime giving because the credit for gift tax purposes remains at $1,000,000 per person.

Congress has been aware of this impending situation for years and attempted to revise these estate tax rules before the end of 2009. But to the frustration of estate planning attorneys and other observers, was unable to agree on a permanent or even temporary solution. However, Congress is working on legislation that would simply extend the 2009 rules (which provide for a $3,500,000 unified credit and 45% estate tax rate) through 2010 or 2011. Presumably, Congress will deal with the issue permanently next year, though we thought incorrectly that legislation would have been passed before now. There is speculation that any such legislation will be made retroactive to January 1, 2010. Meanwhile, if the estate tax is eliminated for even a period of time, no longer would a person who died during that period receive an unlimited increase in the tax basis of their assets (a "basis step up") and instead only $4,300,000 could possibly receive a fair market value basis for income tax purposes.

In an unrelated year-end subject for California residents, a new law went into effect January 1, 2010 that dramatically limits the effectiveness of "no contest" clauses in wills and trusts and makes most existing no contest clauses invalid. A no contest clause is a provision in wills or trusts that attempts to minimize the likelihood a named beneficiary will challenge the terms of the estate plan in court by disinheriting such beneficiary for an unsuccessful challenge. Many living trusts contain such a provision. The new law limits the type of challenges that will be deemed a "contest" and effectively invalidates most existing clauses that were not irrevocable prior to January 1, 2001. Even for trusts that were irrevocable prior to such date, such provisions will only be valid in limited circumstances and only after petition to the court.

Clay Stevens

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PERFORMANCE RESULTS

Category	Sub-category	Fund / Benchmark	4th Quarter 2009	12 Months to 12/31/09	3 Years Annualized to 12/31/09
Fixed Income	Taxable	Benchmark Index: Barclays Capital US Aggregate Bond	0.2%	5.9%	6.0%
		Benchmark Fund: iShares Barclays Aggregate Bond	0.1%	5.1%	5.9%
	* (Nominal)	**PIMCO Total Return Institutional**	**1.0%**	**13.8%**	**9.2%**
		Vanguard Intermediate Term Investment Grade	**1.4%**	**17.9%**	5.6%
	(Inflation-Protected)	**PIMCO Real Return Institutional**	**0.9%**	**17.5%**	**7.0%**
		Vanguard Inflation Protected	**1.9%**	**11.0%**	**6.4%**
	Tax-Exempt	Benchmark: Barclays Capital US Municipal Bond	-1.0%	12.9%	4.4%
		Benchmark Fund: iShares S&P National Muni Bond	-1.6%	10.5%	N/A
	(Short duration)	**Vanguard Limited Term Tax Exempt**	**0.5%**	5.7%	4.3%
	(Intermediate)	**Vanguard Intermediate Term Tax Exempt**	**-0.9%**	10.3%	**4.5%**
		Nuveen Intermediate Duration Muni Bond	**-0.2%**	**13.1%**	3.9%
		Vanguard CA Intermediate Tax Exempt Admin	**-1.5%**	9.8%	3.5%
	(Long duration)	**Vanguard High Yield Tax Exempt**	**-1.2%**	**20.2%**	3.1%
		Nuveen High Yield Muni Bond Class	**-0.7%**	**42.5%**	-6.8%
Real Estate	Global	Benchmark Index: Dow Jones Global Select RESI	4.1%	35.9%	-13.5%
		Benchmark Fund: 60% SPDR DJ Wilshire Intl RE/ 40% Vanguard REIT Index ETF	3.7%	34.8%	-13.3%
		DWS RREEF Global Real Estate Sec	**4.6%**	**37.1%**	**-13.2%**
	US	Benchmark Index: Dow Jones US Select REIT	9.2%	28.5%	-13.6%
		Benchmark Fund: iShares Dow Jones US Real Estate	8.8%	30.2%	-13.8%
		DWS RREEF US Real Estate	**9.4%**	29.9%	**-12.5%**
	Energy Infrastructure	Benchmark Index: Citigroup MLP Index	16.3%	72.2%	5.9%
		Kayne Anderson MLP	**20.7%**	63.7%	-1.4%
Large Cap: Domestic	Broad Market	Benchmark Index: Russell 3000	5.9%	28.3%	-5.4%
		Benchmark Fund: iShares Russell 3000	5.9%	28.2%	-5.5%
		DFA US Core Equity 2	4.5%	**29.2%**	-6.4%
		DFA TA US Core Equity 2	4.7%	**28.7%**	N/A
		Vanguard Total Stock Market	**5.9%**	**28.7%**	**-5.1%**
	Blend	Benchmark Index: S&P 500	6.0%	26.5%	-5.6%
		Benchmark Fund: iShares S&P 500	6.0%	26.4%	-5.6%
		Schwab S&P 500 Institutional Select	**6.0%**	26.3%	**-5.5%**
		Schwab 1000 Select	**6.1%**	**27.7%**	**-5.4%**
	*	**Tax Managed Index Separate Account (Aperio/Parametric)**	*Return based on individual client's portfolio*		
	Value Style	Benchmark Index: Russell 1000 Value	4.2%	19.7%	-9.0%
		Benchmark Fund: iShares Russell 1000 Value	4.2%	19.7%	-9.0%
		Berkshire Hathaway B	-1.1%	2.2%	**-3.6%**
	*	**DFA Large Cap Value**	3.8%	**30.2%**	-9.2%
	*	**DFA Tax Managed Marketwide Value**	3.2%	**31.1%**	-9.1%

* Preferential Access Through Aspiriant

Returns are stated net of manager's fees, but before Aspiriant fees. All fund returns above are stated including the reinvestment of dividends and capital gains. Figures in bold reflect performance equal to or better than benchmark fund or, in cases where the benchmark fund's performance is not available, performance equal to or better than benchmark index.

PERFORMANCE RESULTS

Category	Style	Fund	4th Quarter 2009	12 Months to 12/31/09	3 Years Annualized to 12/31/09
Large Cap: Developed Overseas	*Blend Style*	Benchmark Index: MSCI EAFE	2.2%	32.5%	-5.6%
		Benchmark Fund: iShares MSCI EAFE ETF	2.2%	31.3%	-6.1%
		DFA International Core Equity	0.7%	**39.3%**	**-5.4%**
		DFA TA World Ex-US Core Equity	**2.8%**	**48.4%**	N/A
		Vanguard Total International Stock Fund	**3.2%**	**36.7%**	**-4.1%**
	Value Style	Benchmark Index: MSCI EAFE Value	0.3%	35.1%	-6.8%
		Benchmark Fund: iShares MSCI EAFE Value	0.2%	33.7%	-7.4%
	*	**DFA International Value**	-0.1%	**39.5%**	**-6.2%**
	*	**DFA Tax Managed International Value**	**0.2%**	**37.8%**	**-5.3%**
Small Cap: Domestic	*Blend Style*	Benchmark Index: Russell 2000	3.9%	27.2%	-6.1%
		Benchmark Fund: iShares Russell 2000	3.8%	27.2%	-6.0%
	*	**DFA US Small Cap**	3.3%	**36.3%**	**-5.4%**
	*	**DFA Tax Managed US Small Cap**	3.0%	26.3%	-8.6%
	*	**DFA US Micro Cap**	2.6%	**28.1%**	-8.4%
	Value Style	Benchmark Index: Russell 2000 Value	3.6%	20.6%	-8.2%
		Benchmark Fund: iShares Russell 2000 Value	3.6%	20.4%	-8.2%
	*	**DFA US Small Cap Value**	2.9%	**33.6%**	-9.0%
	*	**DFA Tax Managed US Targeted Value**	**3.6%**	**27.6%**	-10.1%
Small Cap: Developed Overseas		Benchmark Index: MSCI EAFE Small Cap	-1.0%	47.3%	-7.2%
		Benchmark Fund: SPDR S&P International Small Cap ETF	0.1%	41.5%	N/A
	*	**DFA International Small Company**	**0.5%**	**42.0%**	**-5.6%**
	*	**DFA International Small Cap Value**	-2.0%	39.5%	**-5.7%**
Emerging Markets		Benchmark Index: MSCI Emerging Markets	8.6%	79.0%	5.4%
		Benchmark Fund: Vanguard Emerging Markets ETF	8.3%	76.3%	5.0%
	*	**DFA Emerging Markets Core Equity Portfolio**	**8.9%**	**83.6%**	**7.6%**
Commodities		Benchmark Index: Goldman Sachs Commodity Index	8.4%	13.5%	-6.9%
		Benchmark Fund: iShares GSCI Commodity-Indexed Trust	7.8%	15.1%	-7.4%
		GSCI Enhanced Commodity Total Return Strategy Index ETN	**8.6%**	**21.0%**	N/A
		iPath GSCI Total Return Index ETN	**8.6%**	13.2%	-7.9%

* Preferential Access Through Aspiriant

Returns are stated net of manager's fees, but before Aspiriant fees. All fund returns above are stated including the reinvestment of dividends and capital gains. Figures in bold reflect performance equal to or better than benchmark fund or, in cases where the benchmark fund's performance is not available, performance equal to or better than benchmark index.

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