Rebranding the CPA

New Chair Aims to Help Revitalize the Profession

CalCPA Chair Tayiika M. Dennis
Principal, Nonprofit Services
CLA LLP
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“Don’t take building that network for granted, and understand creating trust is something that takes interaction.”

10 Meet CalCPA’s New Chair
Incoming Chair Tayiika M. Dennis is all about building one’s network, which she has done successfully all her life, from the Sierra to Los Angeles, and those efforts have led her to CalCPA’s top spot. From there she hopes to help rebrand CalCPA and the profession itself.

3 It’s Material: Leadership
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FROEMMING, CPA

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Modern estate planning brings with it many variables. Our experts take you through what your clients can expect, and how you should consider advising them in these uncertain times.
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"Don’t take building that network for granted, and understand creating trust is something that takes interaction."
Leadership. It’s one of those things we all recognize, but sometimes have a hard time explaining.

Varied thoughts have been—and will continue to be—discussed for years because there isn’t just one blueprint for being a leader. For example, we used to think outspoken ones made the best leaders. Then we learned about the strengths that introverts bring. (For more on that, read Susan Cain’s “Quiet: The Power of Introverts in a World That Can’t Stop Talking.”)

While we can likely agree on general characteristics of good leaders—visionary, strategic, strong communicator—we now realize the diversity of leadership. From education to background to career path, leaders arrive at their positions in various ways and with different perspectives and ideas. And when we talk leadership today, we include competencies like gratitude, emotional intelligence and inclusion.

And at the heart of leading, I believe, is the concept of serving—thinking of others’ needs before your own.

As we start a new fiscal year, I’m excited and encouraged with our leadership landscape—from the chapter level to state committees to our statewide officers—that will move CalCPA forward.

At our annual meeting in late July, we welcomed Tayiika Dennis, principal at CLA (CliftonLarsonAllen LLP), as 2022-23 CalCPA Chair. Tayiika has displayed her leadership and commitment to CalCPA in many ways, including LA Chapter president, CalCPA Board member, a member of various state and LA Chapter committees, and is a recipient of the CalCPA Women to Watch Award. You can read more about Tayiika and her plan for the year on Page 10.

We also welcomed Adam Blitz, founder of Streamline CPAs, as 2022-23 CalCPA Education Foundation President. He brings the perspective of an entrepreneur and his experience in how businesses and firms can leverage today’s technology. More about Adam and what our learning team has in store for 2022-23 will be in September’s magazine.

Tayiika and Adam—and all our other leaders—are the latest in a long line of CalCPA members who continue to learn, innovate and use their unique skills and perspective to move the profession and our organization forward.

As author and Harvard Business School professor John Kotter says, “Leadership defines what the future should look like, aligns people with that vision and inspires them to make it happen despite the obstacles.”

I encourage you to seek areas—inside and outside of CalCPA—where you can lead. If you’re looking to give your leadership skills a boost, visit calcpa.org/leadership and calcpa.org/cpe. We would love to partner with you on your leadership journey.
Explore the discounts available to you on products and services specifically geared toward CPAs.

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TURNOVER Troubles

Staff turnover will continue to be a key issue for employers for the remainder of the year. A survey found **4 in 10 workers** said they are looking or plan to look for a new role in the second half of 2022, driven by:

- **A salary boost** (88%)
- **Pursuit of hybrid or fully remote work schedule** (50%)
- **Greater opportunities for advancement** (39%)
- **A career change after experiencing burnout** (34%)

“After an extensive process of analysis and public input regarding the lead auditor’s use of other auditors, the Board is taking action to improve audit quality and strengthen investor protection. These amendments will require audit firms to ensure that lead auditors sufficiently plan, supervise and evaluate the work of other auditors.”

—PCAOB Chair
Erica Y. Williams

**4 in 5**
The number of people reporting that inflation has made them more interested in earning credit card rewards.

—WalletHub

**$245M**
The amount collected by the IRS in FY 2021 via whistleblower claims.

—IRS

**Less than $1T**
The market value of cryptocurrencies, which has plunged from $3 trillion in November.

—Bloomberg

**55%**
The number of Americans who say they house their retirement savings in a 401(k).

—New York Life

**$1,666**
The average amount a retired worker gets from Social Security.

—SSA.gov

**30%**
The number of CPA firms that said they are considering an M&A in the next 12 months or more.

—PCAOB Chair
Erica Y. Williams

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Congratulations to CalCPA’s Service Award Winners

The following outstanding members were recognized for their service to the profession and community at the July 28 Annual Meeting:

**Outstanding Accounting Educator Award**
Dr. Gary Schneider, CPA
CSU, Monterey Bay
Silicon Valley San Jose Chapter

**Distinguished Service Award**
Chrislynn Freed, CPA
Los Angeles Chapter
Past President, CalCPA Education Foundation, 2020-21

**Public Service Award**
Lewis E. Sharpstone, CPA
Lewis Sharpstone & Co.
Los Angeles Chapter
Past Chair, CalCPA, 2018-19

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**Application Period Open:**
**CalCPA Leadership Institute**

Strong leaders in strategic positions are key to CalCPA's continued success. CalCPA Leadership Institute is a 5-day program designed to teach members skills that will make them better leaders and managers. Participants will grow as volunteer and business leaders as they focus on improving leadership behavior, as well as critical thinking and management skills.

Find more information and application—due Aug. 31—at calcpa.org/leadershipinstitute.
From the CBA: The 4 E’s of CPA Licensure
Curious about what it takes to earn a CPA license? This video from the California Board of Accounting (CBA) has an easy explanation of the licensure requirements before you apply. It’s as simple as the 4 E’s: Examination, Education, Experience and Ethics—dca.ca.gov/cba/applicants/index.shtml.

5 Actions to Drive Risk Management Capabilities Forward
Talent management, supply chain, regulatory compliance, cyberthreats—the risk environment for organizations is ever-changing. And executives are revising and adapting their strategies and operating models at a fast pace to manage disruptions and deal with internal digital transformation challenges simultaneously, according to the 2022 Global Risk Survey from PwC.

The survey details how strong risk and resilience capabilities can provide an edge and recommends five actions that organizations should consider:

1. Engage early and get risk insights at the point of decision.
2. Take a panoramic view of risk.
3. Set and employ risk appetite to take advantage of the upside of risk.
4. Enable risk-based decision-making through systems and processes.
5. Double down efforts on top risks.


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In the Spotlight

Congratulations to Julie C. Miller, a partner at HCVT, for being named this year’s winner of the CalCPA Lifetime Achievement in Accounting for Entertainment Award. The award, presented at the June 21 CalCPA Entertainment Industry Conference, is given to a CPA, business manager or other financial professional who has made significant contributions to the accounting profession in the entertainment sector over the course of their career.

Miller, who co-leads the firm’s Business Management and Family Office practice, has 35 years of experience providing family office and business management services to high-net-worth individuals and families. Her client portfolio of entertainment professionals includes actors, directors, writers, producers, production companies and other related entertainment businesses.

Introducing a new life insurance option for you and your family

We are proud to introduce a special life insurance program created for CalCPA members.

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Enjoy this special program for CalCPA members at: www.SagemarkInsurance.com
ANNOUNCEMENTS
The Bakersfield College Hall of Fame inducted Lou Barbich as one of its newest members.

MEMBERS IN THE NEWS
The San Francisco Chronicle quoted Richard Pon in a June 17 article on deduction interest on a second mortgage in California … CNBC quoted Dan Herron in a June 21 article on IRS voice bots … CNN quoted Roy Goldberg in a June 22 article on what today’s retirees want future retirees to know … Accounting Today published an article on June 27 by William Holder on the role of the profession.
Meet CalCPA’s New Chair

From the Jewel of the Sierra to the City of Angels …

CalCPA Chair Tayiika M. Dennis
Principal, Nonprofit Services
CLA LLP
CalCPA Chair Tayiika M. Dennis grew up in South Lake Tahoe, which turns out to be a contributing factor to a “full circle” type of moment for her when she was installed in that position at the CalCPA Council meeting held in Lake Tahoe in late July.

Dennis’s family is originally from the Alameda-Oakland region of the Bay Area and lived between there and Lake Tahoe when she was really young. “My grandmother was a traveling nurse and had a second house in Tahoe,” she says. From the age of 5 onward, she lived in Tahoe permanently. “It’s a small town. You go to the grocery store, and you see your elementary teacher—just one of those towns.”

She attended South Tahoe High School and says, looking back, she feels lucky about the childhood she had. “I had a very innocent childhood. We had a basketball hoop at our house and we were the most popular house in the neighborhood—one of those places where everyone hung out. My grandmother and my mother would always feed everybody. The entire neighborhood would come to our birthday parties and other events.”

Dennis graduated high school and headed to UCLA. “I basically came to UCLA and never left Los Angeles” (she’s a principal at CLA LLP, boasting more than 20 years of experience in both private and public accounting with an emphasis in the nonprofit world). She admits her family was a little worried about her going from small town with a population of 22,000, to UCLA where the campus had 36,000 people.

“They were like, ‘Wait, can you do this?’ But I was able to do so, lived in the dorms the first couple of years, got my first car my junior year. And I was afraid of the freeways. I used to take Sepulveda because you can take Sepulveda all the way to the Valley. I really loved Tahoe and it’s a beautiful place, but I guess LA is now my home.”

Finding Accounting
Dennis started at UCLA in a pre-nursing program. “My mother is a nurse, my grandmother, a nurse. And I’m the oldest of four. I have two sisters and a brother, one of my sisters is a nurse, so there’s a nurse gene that works and runs through the family. So, I started pre-nursing and realized very quickly that I should not be a nurse. I did OK in classes like biology, psychology, etc.—but I really don’t like blood. So that was that.”

Through her experience with the general course requirement, Dennis discovered accounting via economics. “I got my first A at UCLA—an easy A—in my first accounting class. I still remember Professor David Ravetch, who is still teaching at UCLA, and he was very passionate about accounting,” she says. “One of the main things I remember about that class is the session right before the final exam, he sat on the stage and had created a very long song about all the accounting concepts that we learned for that semester. That’s passion right there, and accounting just clicked for me. From there I decided to take all the classes needed to sit for the CPA Exam.”

Entering the Workforce & Finding the Way to CPA
After a temp job working for a small company while in the process of graduating, Dennis ended up working at Universal Studios as a financial analyst in the Universal Studios, Information Technology Group. “It was all of the programmers and people who created video games, rides and all the technology on the lot, which was really exciting because there was always something going on, whether it was a movie being filmed, or a music video being made,” she says.

Her graduation and the time immediately following was during the waning dot com boom. “It was right before the bubble burst,” she says. “But there was a lot of investment in that department because programmers were so hard to keep. It was a really fun department. We had a lot of socials and would go explore during the day to see what was being filmed on the lot. It was very exciting.

“One of the people I reported to had a bachelor’s degree, but had not pursued her CPA license or an MBA. She always gave me the advice that if I was going to make this my career, then I should pursue my license. And our department head, Todd, was a CPA and he worked in public accounting and said how valuable it was.”

Dennis worked at Universal for two years, passed the CPA Exam and then entered public accounting. “I thought I would do a couple of years, get my CPA license and then move on,” she says. “And here I am some 20 years later because it’s always different. I love working with different clients and I really like what I do.”

Helping Hands
Dennis encountered a key figure in her career when she landed a job at a small boutique firm based in Pasadena that specialized in nonprofit organizations. The firm went through a number of changes, and the partners ended up splitting. Dennis stayed with the firm, but one partner—Gayle Whittemore—left and started her own practice. “Years later, we ran into each other at a conference, and it was really perfect timing,” says Dennis. “I just left
that small boutique firm and started with the one I’m with now, which was then NSBN LLP, which was acquired by CLA LLP in 2018. Gayle and I’s relationship picked up right where it left off and she became a valued, outside perspective with experience. She is a great mentor and always will be someone that I still can call to this day whenever it comes to making big decisions. She has been instrumental in my career.”

A Standout Client
With a long-standing career and a thick portfolio of clients, it’s interesting to note one of Dennis’s favorite clients—Orange County Asian and Pacific Islander Community Alliance (OCAPICA)—is one of the first business development successes that she had.

“I believe we are going on the 13th year of working together,” she says. “In the beginning, they had just been awarded their first major government contract. They had the audit requirement to fulfill, which we worked with them on, and that first year we had some recommendations in terms of improvements and how to better manage the organization. Fast forward to working with them through the years and they’re now well over $11 million in revenue, have multiple locations and are successfully servicing the Garden Grove Orange County area. They’re a wonderful client and it was an experience during which I learned what it meant to be a trusted advisor.”

Enter CalCPA
CalCPA entered Dennis’s professional life in 2008, when she was transitioning into the firm that she’s at now. “Change is never easy, and when you change firms, you must re-establish yourself because people don’t have history or sense of who you are—even though you’re a CPA and achieved the manager position, you still have to prove yourself.

“When I was hired by a partner, Ken Scurlock, now retired, he hired me because my résumé came across his desk through his friend who knew my recruiter. It was almost this inside connection to obtaining this position. And I was not hired because there was a specific opening. It was more that they saw an opening to build on the opportunity

“The support of my firm in achieving leadership roles with CalCPA is a tremendous factor in my success. CLA exists to create opportunities for our clients, our people and our communities. Make sure you work for a firm that allows you to pursue your passions.”

Advice for Future CPAs
Dennis’s key word of advice for those coming after her is to absorb and to learn as much as possible, and not take criticism too personally. “Anytime someone’s willing to speak with you, teach you or to show you what you did wrong—they’re taking the time to invest in you. That’s huge, right? Always look at it as an experience that will make you better.”

Dennis also recognizes that these unprecedented times can be hard to navigate for people forging a career. “The global pandemic was devastating to many things, but a number of good things came out of it.” she says. “Consider working remotely, which is a good thing for many people and reasons. However, while convenient, I do think that remote work provides a little bit of a disservice for young staff, as they are missing the office experience, being able to learn and grow with those around you. I don’t know how someone could build connections as a trusted advisor fully through a screen.

“Don’t take building one’s network for granted and understand that creating trust is something that takes interaction. The hybrid workplace is here to stay, but really look at making those connections—building your network—to carry you through your career. Your network is your net worth.”

The global pandemic was devastating to many things, but a number of good things came out of it. Anytime someone’s willing to speak with you, teach you or to show you what you did wrong—they’re taking the time to invest in you. That’s huge, right?
Snapshots of the New Chair

What one word describes you best?
My best friend I think said it the best: inclusion. Her words were, “Your natural ability to make certain everyone you interact with is involved.”

What’s your most recently binge-watched show?
A show that I most recently watched was on Netflix called “Rotten.” It’s a documentary about the food chain supply. I’m really into documentaries—I feel like real life is more fascinating than anything you can create. But this one really captured my attention. The episode on avocados and the demand for them and how because of the demand, people have literally been kidnapped from avocado farms and held for ransom in Mexico. It’s really fascinating how something like supply and demand, which goes back to my economics days, can create this power struggle.

Favorite app and why?
The most used one lately has been YouTube because I feel it has tutorials for everything you can think of. I have a wall heater and the pilot light went out. So, I watched a YouTube video and I could relight my pilot light.

If we could see your texts, which emoji would we see the most?
Definitely the laughing one. The crying, laughing one along with the sideways crying, laughing one. Followed by the heart.

What can you be found doing in your free time?
My absolute favorite thing to do is spend time with my poodle-mix Chez. If the saying is true that dogs take on the same personality traits of their owner, then I am blessed. Networking has become part of my life, just like how CalCPA has, because I’ve developed lifelong friendships doing both. In my free time I’m always trying to connect with various people in my life. I love taking weekend trips. I spend a lot of time in Arizona with my family, and in Lake Tahoe. I am a big fan of Vegas and love a nice hotel room. The Wynn is one of my favorite resorts. And I’m a foodie, so I eat at restaurants and my uncanny ability is that everywhere we go, I always befriend people. Just recently at lunch in Beverly Hills, one of the waiters walked by and I knew him—he lives in my neighborhood. On another lunch in San Diego, I ran into a high school friend from Tahoe. People always ask, “How do you know someone everywhere we go?”
Greetings to my CalCPA family! First and foremost I must thank you for this opportunity, as I’m so proud to be your 2022-23 Chair. CalCPA has given so much to me: networking opportunities, new client business, lifelong friendships, professional development and leadership positions, culminating in this role as Chair. I’ve received back threefold the time and effort I have placed in CalCPA, and you can too, if you take advantage of the events and resources CalCPA offers to our members.

So yes, CPA not only stands for Certified Public Accountant, but also Coolest Profession Around. I truly believe we are the Coolest Profession Around and here are the reasons why:

- **Reliable:** Our profession is one that withstood the effects of a life-changing, global pandemic and continued to thrive. We were there for our clients, our colleagues, our families, our communities and—most important—each other. CPAs by our general nature are reliable and consistent, traits that showed especially during the last 2 years. CPAs are considered the most trusted advisors in business.

- **Educated:** The very foundation of our profession is education, which is one of the reasons we have a reputation steeped in confidence. CalCPA’s Education Foundation exists for this very reason and has kept us informed and up-to-date despite physical boundaries.

- **Supportive:** The existence of a membership organization is about how it supports or furthers one’s career. We support our members through education—as mentioned previously—leadership opportunities, networking and professional development.

- **Inclusive:** CPAs have been at the forefront of diversity, equity and inclusion (DE&I) efforts—inclusivity will only enhance our profession. The formation of CalCPA’s DE&I Commission highlights CalCPA’s commitment to closing the equity gap and improving inclusion within our profession. I’m also proud of our member firms making concerted efforts through their own individual programs dedicated to diversity in their respective firms.

- **Leaders:** We’re natural leaders in our firms and communities. Join a board of directors? You are automatically the treasurer. Having a meal with friends? You are in charge of splitting the tab. Our leadership skills know no bounds.

- **Innovative:** The only constant in life is change, and the last two years have indeed brought unexpected change. Innovation in education and technology is a must for our profession, and CalCPA helps our members stay relevant.

- **Expertise:** Almost goes without saying. CalCPA members share our expertise in ways that support our communities. Whether volunteering, financial literacy or tax assistance, we provide valuable knowledge that benefits the public.
• **Next Generation:** One thing I’ve always admired about our profession is that we’re always looking out for the next generation. We want to bring up new talent, identify the next leader and support accounting students with scholarship funds.

• **Tech Savvy:** Advancements in technology have played a huge role in making our job easier. From the abacus to artificial intelligence, we’ve come a long way. To embrace change and technology is no longer an option, but a must for our profession. The upcoming revamp of the CPA exam by the AICPA attests to the AICPA’s dedication to keeping our profession current and relevant. CalCPA also educates and supports our members on the use of technology solutions to enhance their practice.

Have you noted that the first letter of each word above? R.E.S.I.L.I.E.N.T. Yes, ladies and gentlemen, we are RESILIENT! Any profession that can survive a pandemic and come out even stronger and more respected is the definition of resilient and definitely the Coolest Profession Around.

With only a year as Chair, I feel that my time is best spent building on the pillars the five past chairs that have come before me:

• **Pipeline and Diversity:** 2021-22 Chair Christie Simons focused on the next generation of CPAs, which is critical to the continuity of our profession. I want to focus on educating college and high school students about the many opportunities of this profession.

• **Silver Linings:** 2020-21 Chair Jolene Fraser was so impactful in her leadership in guiding us through an uncertain pandemic. She inspired me more than she will ever know in embracing change and uncertainty and coming out the better for doing so.

• **From Accountant to Advisor:** 2019-20 Chair Bob Reynolds transformed the A in CPA from accountant to advisor. We truly are more than just numbers and shifting our focus to advising makes us industry leaders.

• **Its About the Public:** 2018-19 Chair Lewis Sharpstone knew that the P in CPA should always be the priority, as we have the trust of the Public. In a time of declining trust that has fueled polarization, now more than ever we must focus on maintaining our reputation with the interest of the public always at the forefront of our decisions.

• **Financial Literacy and Diversity:** 2017-18 Chair Kathy Johnson focused on financial literacy programs and diversity. Her efforts laid the groundwork for the formation of CalCPA’s DE&I Commission, of which she is the chair. Kathy was CalCPA’s first African American chair, and I was her appointee to the board. She is one of the reasons I’m chair today, and to her I’m forever grateful.

In summary, each of these past chairs embodied being an advisor with a commitment to the public, diversity and our pipeline with an attitude of gratitude. I love how their work has complemented and built upon each other. And I would be remiss not to mention all of the other past chairs, whose leadership is the foundation of our organization. Thank you for being an inspiration.

I will close my message with a poem. I’ve had fun giving my last nomination speeches as poems, as it’s an entertaining way to deliver a message.

Being a CPA is the Coolest Profession Around, Our career opportunities are endless, and truly know no bound. We lead our communities, and keep the righteous path. We are easy on the eyes, and really good at math. We are diverse and inclusive, and will leave no one behind. A focus on skills and ethics, makes our profession color-blind. We are inspirational trailblazers, and have earned the public trust, With all this responsibility, taking time for our well-being is a must. For all of your hard work, know you are truly renowned, Because being a CPA really is the Coolest Profession Around.

I look forward to serving you.
The CalCPA Career Center connects employers with premier CPAs and financial professionals.

Post your job where the industry’s most qualified CPAs and financial professionals go to advance their careers.

Have your open positions emailed directly to CalCPA job seekers via our exclusive Job Flash™ email.

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International Moves

To Each Their Own

Each country has its own rules and requirements when it comes to taxes. Understanding the rules in each jurisdiction involved, and planning in advance, can help avoid uncertainties and unnecessary legal proceedings and reduce tax burdens.

Nationality (citizenship), residency and domicile are important factors many countries consider when determining tax residency for estate and gift tax purposes. For example, in the United States, when it comes to estate and gift tax residency, the determination focuses on intention on “domicile.” What’s domicile? It’s the country that a person treats as his or her permanent home. In other words, where the taxpayer is planning to live for the rest of his or her life.

Being a tax resident for estate and gift tax purposes can have significant impact on how estates and gifts are taxed. It also may impact how the estate is allocated, since many countries have rules regarding forced heirship where the laws require that assets be passed to certain heirs—which could be dramatically different from what the decedent might wish to do. Some countries may require that estate taxes or gift taxes be borne by the decedent or donor, while other countries may require that the taxes be paid by the beneficiary.

Domicile & Situs

If a taxpayer is domiciled in the U.S., the person is subject to U.S. estate and gift taxes for their worldwide assets; meanwhile, the taxpayer will have the benefit of a lifetime exemption available (currently $12.06 million). If a taxpayer is domiciled in a foreign country, they will be considered a nonresident for U.S. estate and gift tax purposes and the person will be subject to U.S. estate and gift taxes on U.S. situs (the place to which, for purposes of legal jurisdiction or taxation, a property belongs) assets only, but the $12.06 million lifetime exemption is not available in this case.

Situs of assets plays an important role in estate and gift tax planning. Using the U.S. as an example, real estate properties located in the U.S. are always considered U.S. situs property for estate and gift tax purposes. It’s irrelevant whether the taxpayer is a U.S. tax resident. U.S. corporation stocks are treated in the same way as real estate for U.S. tax residents, but differently for non-residents. U.S. corporation stocks are not U.S. situs property when a non-resident gifts the shares. However, the stocks would be considered U.S. situs property for estate tax purposes when the non-resident holds the shares upon death.

The U.S. has estate and gift tax treaties with many countries around the world. These treaties can provide significant tax savings for taxpayers with assets in multiple countries. However, it’s important to understand the specific terms of each treaty and how they may affect your tax situation.

Estate & Gift Tax Planning Considerations for Cross-border Families

Being a tax resident for estate and gift tax purposes can have significant impact on how estates and gifts are taxed.
with various countries. The treaties provide a certain level of protection for specific taxpayers with assets in multiple countries and should be considered in planning.

Considerations for Nonresidents

As for estate and gift planning for nonresidents, several factors should be considered. Some are the same as would be considered by residents formulating their estate plans, such as family dynamic, type of assets and income that would be generated by certain assets.

Conversely, some factors are unique to nonresidents. Under U.S. tax laws, for U.S. gift tax purposes nonresidents can gift foreign assets to U.S. residents without being subject to U.S. gift tax. This provides opportunities for nonresidents to gift before becoming U.S. tax residents for estate and gift tax purposes.

Trusts

Trusts are commonly used in domestic estate and gift planning. Similarly, trusts can be used for international estate and gift planning as well. What type of trust is used depends upon the specific situation. Both foreign and U.S. trusts could be considered.

A U.S. domestic trust may be created and funded by a foreign person for benefit of U.S. beneficiaries, while a U.S. resident may create a foreign trust for benefit of U.S. or foreign beneficiaries. The gifts mentioned above can be made through trusts when appropriate.

However, one should pay close attention to U.S. trust tax reporting if one holds foreign assets. As mentioned, U.S. tax laws—such as rules related to controlled foreign corporations, passive foreign investment companies and foreign bank accounts—are quite complex with respect to foreign asset reporting, and the penalties for misreporting could be significant.

Life Insurance No Longer Discussing ‘Trusts’

Including life insurance in your planning strategy, such as leveraging a Private Placement Life Insurance Trust (PPLI), also can be effective. PPLIs provide flexibility as to the types of assets you can contribute into the trust, particularly if the trust is set up in certain foreign jurisdictions. However, there are questions to consider when determining whether setting up a PPLI in a foreign jurisdiction actually makes sense.

• Can the taxpayer easily deal with dispute(s) in the foreign jurisdiction?
• What is the tax impact on the taxpayer in the country in which they are considered a resident?

Conclusion

Because navigating laws and regulations in different jurisdictions can be so convoluted, engaging and coordinating with advisors who are well-versed in local rules is crucial to effective planning involving cross-border issues. To be clear, there is no “one size fits all” plan or solution. Taxpayers should be aware of all the factors and consider the tradeoffs that may be necessary during the planning process. Through review and planning, they may just find a balancing point.

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The estate tax began with a stamp tax in 1797, which was then repealed in 1802. This tax did not return until the Civil War. In was reinstated in 1864, then repealed again at the end of that war. The modern estate tax system really began in 1898 to raise revenue for the Spanish-American War, but also was repealed at the end of that war in 1902. The estate tax that we have today was established by the Revenue Act of 1916. It expired in 2010, but retroactively was reinstated, and it was made permanent in 2012.

Since 2012, there have been several attempts to change our federal estate, gift and generation-skipping transfer tax exemptions. These recent attempts by Congress remind us that even permanent taxes are subject to change, and that estate related taxes are likely the most political taxes in the modern United States’ system of taxation.

The Politics of Taxes
Why are transfer taxes considered to be such an extremely political tax? For two primary reasons:
1. The amount of revenue derived is not significant to the U.S. budget (income and Social Security taxes on individuals account for more than 66 percent, consumption, property and corporate taxes contribute about 34 percent, with the estate and gift tax revenues at less than one-half of 1 percent of receipts and one-tenth of 1 percent of GDP, per the Congressional Budget Office as reported in their most recent report from 2020); and
2. The number of citizens who are subject to these taxes is small (about two out of every 1,000 citizens were even subject to the estate tax at all according to the Joint Committee on Taxation of the US Congress in 2015, the most recent year that data is available for, and even fewer today with the significantly higher exemption levels). Further the only taxpayers who are subject to these taxes are those who are ultra-wealthy (taxable estates more than over $12 million this year if unmarried and potentially $24 million for married couples). Thus, they are “easy targets” for raising revenue (their political influence does not arise from their number, but from their ability to obtain influence by their financial strengths, including campaign contributions). In 2020, only 1,275 estates paid any estate tax according to IRS.

Changes in the Wind
In 2021 we saw four proposed tax laws (American Families Plan, The 99.5 Percent Act, The Infrastructure Investment and Jobs Act and Build Back Better bill) that, if enacted, would have overhauled our transfer tax system. Because of the political sensitivity of these taxes, there were no significant enacted changes to our transfer tax system.

Whether overhauls of our system of taxation occur or not, the estate tax related laws (commonly called “transfer taxes”) are scheduled to change by statute in the next few years regardless of such attempts to change now. For this reason, it’s important to have flexibility in estate planning documents so they may be effective despite changes to our tax laws.

It’s also key to build flexibility into the beneficiary designations for defined contribution plans, life insurance, etc. as part of the estate plans. Income tax law changes have changed recently to require the total amount of a defined contribution plan to be withdrawn over 10 years in many situations. Additionally, significant wealth is held in such plans (especially defined contribution plans), and the question to address is whether the amounts left to beneficiaries should have controls (in these situations a trust as beneficiary could be advisable for non-tax reasons).

Because of ever-changing lifetime exemptions, it’s strongly recommended that all CPAs consider filing an estate tax return upon the first death of a married couple, even where the estate is not large enough to require that filing, for the purpose of making a “portability” election. Even if a married couple has a traditional “A, B, C” type estate plan (which creates at least one new trust for the
deceased spouse upon their death), it’s usually advisable to make this election to transfer their unused exemption to their spouse.

Even without continuing attacks on the current exemption levels, the exemption is scheduled to change by law. Existing tax laws call for the current $12 million+ exemption to drop to $5 million (as adjusted for inflation, so probably about $6 million, or about half of what it is today) in 2025.

**Trust Protector**

Since uncertainty is the certainty, the key to modern estate planning is flexibility. Flexibility must now be drafted into all documents that carry out future wishes. Further, systematic review of estate plans is now more important than ever. CPAs can assist in this by keeping copies of client’s estate plans so that we know when they were reviewed and can then recommend that they be reviewed when we see changes in our clients’ situations or in tax laws (and probably at least every five years in any case).

One concept that can create flexibility would be the use of a trust protector (see “CPAs as Trust Protectors,” *Journal of Accountancy*, March, 2007). A trust protector can have the power to change trust documents to serve the client’s wishes. These powers can be defined to include trust changes when the tax laws change, and the trust is accidentally not changed to reflect those changes. Flexibility also might be needed if a beneficiary’s situation changes (if a beneficiary experiences a lawsuit or divorce, for example—or if a beneficiary becomes a “special needs situation”—a protector might have the power over distributions to minimize risks from such situations).

The powers that a protector can be given are limited only by the imagination and the creativity of the drafting attorney. The American Bar Association lists the most common powers as:

- Arbitrate disputes between trustees and beneficiaries or between beneficiaries;
- Modify the trust agreement for purposes of correcting mistakes and taking advantage of tax laws;
- Construe terms of the trust and advise the trustee and beneficiary of the same;
- Alter a beneficiary’s interest in the trust;
- Terminate a trust;
- Remove and replace trustees;
- Add or remove beneficiaries to a trust;
- Interpret the rights of a beneficiary to accountings and other trust information;
- Grant, modify or revoke a beneficiary’s power of appointment;
- Change the distribution standard; and
- Approve trust accountings and trustee compensation.

A trust protector can also assist in decisions regarding pension type distributions (including IRAs, life insurance, etc.), assuming that the trust has been designated as the beneficiary that follows the spouse (so that the trust receives distributions at the second death).

Current law would likely require the defined contribution plan amounts to be fully distributed within ten years of death all at ordinary income tax rates (and without the benefit of a “step-up” in basis). It is possible that this shortened distribution period might change, in which case the protector might want to change the distribution provisions (if given that ability) to spread out the distributions. Under current law, the protector might want to be sure that the distributions are spread over the 10 years, especially if the amounts to be distributed are significant.

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The protector might also be involved in analyzing the advisability of taking defined contribution plan assets out during the lifetimes of the couple who earned them. In the case of a taxable estate, the income taxes paid then effectively become deductible against the estate tax (because they have reduced the estate by the end of the couple’s lives.) If distributed after death, they could be subject to estate tax, Federal income tax and state income tax (potentially more than a 90 percent overall effective tax rate).

A protector might be used if a beneficiary is subject to claims of a creditor or soon to be ex-spouse. Given appropriate powers the protector may be able to stop distributions so that a court cannot allow them to be subject to claims. This is obviously a subject for the attorneys involved in this planning.

Conclusion

Too often we see clients living in states with state-level estate taxes telling us that they are not subject to estate taxes because they are unaware that states can have differing (and lower) exemption levels (for example, an individual with a $7 million estate living in the state of Washington would owe about $700,000 in state estate tax, in spite of having no federal tax obligation—and no state income taxes). Estate tax planning should be alive and well in such states! About 12 states have estate taxes. Be sure that you know the estate tax laws of the state that your client lives in and that those taxes are planned for.

Modern estate planning will involve the usual planning for distribution of the estate. However, to avoid various traps will now require that we consider potential tax law changes (including rate and exemption level changes); planning for beneficiary designations; the use of trust protectors; pension type distribution planning; portability issues; and state estate or inheritance tax considerations. [1]
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Budget Time
A Deeper Dive Into the $300 Billion Package

In mid-June the Governor and the Legislature passed a framework of a state budget to meet constitutional deadlines. However, the substance of much of the budget package came later in July when a series of budget trailer bills was passed on a largely partisan vote. In the end, the package outlined a record $300 billion state budget that addresses a broad list of policy priorities.

A key piece of the budget package is $9.5 billion in inflation relief via the Middle Class Tax Refund implemented by the FTB as outlined by AB 192. Nearly 23 million taxpayers will receive a refund based on their adjusted gross income and whether they have a dependent. Payments may be as much as $1,050 for joint filers with a dependent with an income of $150,000 or less and will decrease for higher income earners. The FTB expects to begin payments by October of this year.

Ballot Measures for Nov. 2022
In addition to Legislative, Congressional, and constitutional office races, California voters will decide on seven ballot initiatives. As the Nov. 8 general election gets closer, these initiative are likely to get significant attention from proponent and opponent campaigns.

Prop. 1: Reproductive Freedom
A late add to the ballot, this proposition was added by the Legislature in response to the U.S. Supreme Court overturning of Roe v. Wade. Specifically, this would add abortion safeguards in the California constitution by barring the state from denying or interfering with a person’s right to choose an abortion or contraceptives.

Prop. 26: Authorize New Types of Gambling at Tribal Casinos
Sponsored by some of the state’s large tribal governments, this would legalize in-person sports gambling, roulette and other dice games at tribal casinos and designated horse tracks. It’s expected to raise tens of millions of dollars in fee revenue for the state general fund.

Prop. 27: Authorize Online Gambling
Sponsored by online gambling companies (FanDuel and DraftKings) would allow online sports betting through certified gaming tribes and large online betting companies. This is expected to generate hundreds of millions in fee revenue for housing and homelessness services.

Prop. 28: Funding for School Arts & Music Programs
This would set aside 1 percent of the required state and local funding (roughly $800 million to $1 billion) for education for arts and music programs—particularly for schools in underserved communities.

Prop. 29: Labor Rules for Kidney Dialysis Clinics
This would add additional labor and staffing requirements for kidney dialysis clinics. This is the third time this type measure has been before California voter. The prior two were rejected in 2018 and 2020.

Prop. 30: Tax on Millionaires to Fund Wildfire Prevention & Electric Vehicle Infrastructure
This is a proposal to impose a new 1.75 percent tax on individuals with income more than $2 million per year. The $3-4.5 billion in new revenue would be directed toward incentives for zero-emission vehicles and the related charging infrastructure.

Prop. 31: Referendum on State Law Banning the Sale of Flavored Tobacco Products
Asks voters to reconsider a 2020 state law that prohibits the sale of flavored tobacco products, regardless of how it is consumed (chewed, smoked or vaped).

Jason Fox is CalCPA’s vice president of government relations. You can reach him at jason.fox@calcpa.org.

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Transfer Taxes

New Guidance to Apply to Different Exemptions to Unified Gift & Estate Taxes

Transfer taxes include gift and estate taxes. A unified credit (exemption) offsets gift taxes. Any remaining credit reduces the estate tax. This credit is called the applicable exclusion amount (AEA) and includes the basic exclusion amount (BEA).

Under IRC Sec. 2010(c)(3)/A, the BEA is $5,000,000—adjusted for inflation. However, Sec. 2010(c)(3)/C increases the BEA to $10,000,000, adjusted for inflation, for gifts made and estates of decedents dying after 2017 and before 2026. Thus, for 2022, an individual’s BEA is $12,060,000.

IRS’ Action
The IRS identified the following situations where BEA increases or decreases could be potentially problematic:

<table>
<thead>
<tr>
<th>Situation</th>
<th>Effect of BEAs</th>
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<td>1</td>
<td>Increase on gift tax.</td>
</tr>
<tr>
<td>2</td>
<td>Increase on estate tax.</td>
</tr>
<tr>
<td>3</td>
<td>Decrease on gift tax.</td>
</tr>
<tr>
<td>4</td>
<td>Decrease on estate tax.</td>
</tr>
</tbody>
</table>

However, only Situation 4 was determined to be problematic and is addressed by Regs. Sec. 2010-1(c). To better understand the concern and remedy regarding Situation 4, the gift and estate computations (shown next) must be reviewed.

Tax Computations

Gift Tax
1. Determine tentative tax on all current year and prior periods taxable gifts.
2. Determine tentative tax on all prior periods taxable gifts.

Estate Tax
1. Determine tentative tax on the taxable estate and adjusted taxable gifts, which are all taxable gifts made after 1976—except those included in the gross estate.
2. Compute a hypothetical gift tax, called the gift tax payable, an all post-1976 taxable gifts, whether or not included in the gross estate. The credit for each year that a gift was made is the tentative tax, using the rates in effect at the decedent’s death, on that year’s AEA, but not exceeding that year’s tentative tax.
3. Determine the net tentative estate tax as follows:

   - Step 1 tax $_____
   - Less-Step 2 tax $_____
   - Net tentative current year tax $_____

4. Determine a credit equal to the tentative tax on the AEA, as in effect on the decedent’s death, but not exceeding the net tentative estate tax.

5. Determine the net estate tax, as follows:

   - Step 3 tax $_____
   - Less-Step 4 credit $_____
   - Net tax $_____

Situation 4 Analysis & Resolution

This situation deals with a decedent who made gifts during the increased BEA period, 2018-25, that were exempt from the gift tax by the increased BEA and dies after 2025.

The issue is whether the estate tax computation treats these gifts as not sheltered from the gift tax by the credit on the BEA because this post-2025 estate tax reflects the BEA in effect on the decedent’s death.

The IRS explained that the statutory requirements retroactively eliminate the increased BEA benefit applicable to gifts made during the increased BEA period.

Therefore, Regs. Sec. 2010-1(c) modifies the credit in Step 4 of the estate tax computation to equal the tentative tax on the AEA, as in effect on the decedent’s death, where the BEA included in the AEA is the greater of:
- The BEA in effect on the decedent’s death; or
- The total amount of the BEA allowable in determining the gift tax payable (Step 2 of the estate tax computation).

This modification is called “the special rule.”

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<th>Accounting and Financial Statements</th>
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