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The Year In Review, 2006

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Don't look now, but another year is wrapping up which is always our cue to look back over the past year for noteworthy developments.

We shall remember 2006 for the Pension Protection Act, the arrival of longer look-back rules for Medicaid planning purposes, a philanthropic gesture by Warren Buffet, and, of course, a remarkable trip to the Supreme Court in an inheritance matter by none other than Anna Nicole Smith. And lest we forget the

800-pound gorilla in the room, there was also a shift in political fortunes this past year that has given death taxes a new lease on life, so to speak.

Naturally, we are most pleased for the opportunity to assemble another collection of surprises, ironies, incongruities, outrages, factoids, and celebrity sightings that have added color to our financial-planning niche over the past year. Sit back and join us on a little tour of highlights.

Presented With Our Compliments

New Legislation

Medicaid Planning: In February, 2006, President Bush signed S. 1932, the Deficit Reduction Act of 2005. The new law increased the Medicaid look-back rules to 60 months for direct transfers, making them the same length as the look back for transfers to trusts which had already been at 60 months. In addition, detailed financial records will now be needed by applicants for the five-year period prior to an attempt to qualify for Medicaid benefits.

PPA '06: Congress took measures to protect the system of corporate retirement plans by requiring companies to adequately fund defined benefit plans over the next seven years. "Americans who spend a lifetime working hard should be confident that their pensions will be there when they retire," said President Bush.

The Pension Protection Act of 2006 contained other provisions impacting taxpayers. It made a "saver's credit" permanent, permits direct deposit of tax refunds into IRAs, allows non-spouse beneficiaries of a decedent to treat the decedent's IRA like distributions from a qualified plan, i.e., over a five-year period or over the life expectancy of the beneficiary. Early withdrawal penalties were ended for certain government plans for police, EMTs, and others who separate from service after age 50.

Direct distributions from an IRA to a qualified charity will avoid taxes on up to \$100,000 per year per taxpayer. Charities will now be required to maintain better records for cash contributions.

Conservation Easements: Also contained in the Pension Protection Act were provisions affecting conservation easements, which were given a temporary boost for 2006 and 2007 with an increase of the deduction to 50% for individuals. However, appraisal rules were also tightened and penalties apply for fraudulent misrepresentations.

Uniform Trust Code: A growing number of states are enacting the Uniform Trust Code. In 2005, the addition of Arkansas, North Carolina, Oregon, South Carolina, and Virginia brought the total of UTC states to 15. In 2006, Alabama, Florida, Ohio, and Pennsylvania adopted UTC legislation, and many other states are now considering it as well.

"Lady Bird" Deeds: At least seven states (Arizona, Colorado, Kansas, Missouri, Nevada, New Mexico, and Ohio) already allow transfer on death deeds, also called beneficiary deeds or Lady Bird

deeds, named after property the former first lady inherited from President Lyndon Johnson. The National Conference of Commissioners on Uniform State Laws (NCCUSL) authorized work on a model law for revocable transfer on death deeds that would operate much like beneficiary designations now used on investment accounts and life insurance policies.

Estate Tax, We Hardly Missed Ye...

The demise of the estate tax has been greatly exaggerated. At the start of 2006, Congress wouldn't compromise on an estate tax because hardliners were holding out for complete repeal. At mid-year of 2006, the Senate was four votes short of being able to close debate and vote on making the repeal permanent.

But advocates of permanent repeal never had the votes and by the end of 2006, the balance of power had shifted in both the House and Senate as a result of the war in Iraq.

Economically, the cost of the war and the increasing debt of the nation place more emphasis on tax revenues from all sources. But more directly, the war is credited with bringing about the political shift in both the House and the Senate that coincides with a loss of votes in favor of repeal. When new members are seated in January, 2007, the permanent repeal supporters may no longer have a majority.

The Supreme Court

The reality show that is Anna Nicole Smith's life paid a visit to the United States Supreme Court seeking to continue her legal fight to claim the fortune of Texas oil tycoon J. Howard Marshall II. At age 26, then working as a topless dancer, she had married Marshall, 89, one year before his death. Nothing was left to Smith in the will, but there were allegations of fraud and forgery. Smith had been awarded \$474 million, which was reduced to \$89 million, then eliminated entirely by a Federal court. The Supreme Court sided with the former playboy playmate and reality-show star. As a result of this unlikely scenario, the door to Federal Court has been pried open for certain state cases involving probate matters.

But other twists in the case continued to follow. E. Pierce Marshall, 67, Ms. Smith's principal adversary, passed away. Anna Nicole Smith had a baby this year, but days later, her 20-year old son died. Ms. Smith and her attorney Howard Stern announced they are a couple. However, the former boyfriend of Ms. Smith is

demanding a paternity test. The ultimate destination of the Marshall estate at this point remains anyone's guess.

In other Supreme Court news, an appeal was filed by the granddaughter of A.A. Milne and Walt Disney Productions concerning the copyright to Winnie the Pooh. But this may have been the final stop of a 13-year dispute over royalties because the Court refused to hear the case (*Milne v. Slesinger*), leaving a 9th circuit Court of Appeals decision against Milne and Disney in place.

The Supreme Court also upheld Oregon's unique 1997 assisted suicide law by a 6-3 vote in the case of *Gonzales v. Oregon*.

Valuables

Sublime...or Ridiculous?: A Florida resort placed a \$100 hamburger on the menu—it's \$124.50 with tax and tip and consists of 20 ounces of American beef, Japanese Kobe, and Argentine cattle.

A Chicago bar concocted a \$950 cocktail: Grey Goose L'Orange vodka, Dom Perignon champagne, cognac, pomegranate liqueur, orange juice, and a one-carat ruby.

And for dessert, New York's Serendipity restaurant offers a \$1,000 sundae consisting of vanilla ice cream topped with truffles, Parisian candied fruits, a tiny bowl of golden salt-free dessert caviar, rare Venezuelan chocolate, and gold leaf, served in baccarat crystal with mother-of-pearl spoon.

Auction Highlights: At a charity auction of celebrity jeans, the top price was \$22,476 for an autographed pair of jeans worn by actor Hugh Jackman. Nicole Kidman's jeans sold for \$8,200.

At a celebrity-oriented auction by Christies in New York, one of Andy Warhol's silver wigs sold for \$10,800 and Warhol's Polaroid of Mick Jagger from 1975 went for \$15,600. A black cocktail dress worn by Marilyn Monroe went for \$66,000.

Christie's also held a Star Trek auction that netted \$7 million for 1,000 items of memorabilia. The first model of the Starship Enterprise was auctioned for \$576,000.

Joanne Carson, a former wife of Johnny Carson, auctioned her collection of Truman Capote memorabilia at Bonhams & Butterfields auction house. A scrap of paper, on which Capote had written in red ink, "I know what I'm doing, except sometimes," sold for \$1,700.

Finally, a copper weathervane that spent a century over the Woonsocket train depot was auctioned for \$1.2 million.

Most Expensive Vote! It should only cost \$.24 to mail a postcard, but a Florida voter sent in an absentee ballot this year using a block of four rare inverted Jenny stamps from 1918 that had accidentally been printed upside down. A similar block was auctioned for \$3 million last year. The stamps are now government property.

The Wealthy

Rich: According to a study by Merrill Lynch, the number of millionaires worldwide grew to 8.7 million in 2006, and the number of millionaires worth more than \$30 million grew by 10%. As \$41 trillion is passed to heirs over the next 40 years, funds are expected to move overseas into emerging markets and real estate.

Richer: For the first time, the Forbes 400 list of the nation's wealthiest people is now populated exclusively by billionaires. Kuwait, with \$166 billion due to oil revenues, not only has no income taxes but this year gave each of its one-million citizens the equivalent of \$690 apiece.

Richest: Bill Gates and Warren Buffett are friends and co-philanthropists. They are also the two wealthiest individuals in the world with fortunes estimated to be \$50 billion and \$40 billion, respectively.

Philanthropy

Warren Buffet announced plans to give 85% of his fortune to charity, with an amount estimated at more than \$30 billion going to the Bill and Melinda Gates charitable foundation. This will double the Gates foundation, which is already the world's largest. Together, Buffet and Gates are attributed with energizing a new philanthropic movement toward lifetime giving.

Going against this trend (for unrelated reasons) Oracle CEO Larry Ellison cancelled a \$115-million gift to Harvard University as a result of the resignation of Harvard's president, through whom the gift had been arranged.

Maria Lord, the widow of Hawaii 5-0 star Jack Lord, passed away. Now their estates have established a \$40-million foundation to help Hawaiian charities.

Another impressive act of charity was from Roberta Langtry, 89. She was a Canadian teacher in an elementary school and a speech therapist who lived

frugally and gave no outward sign of her investment successes. These included investments in IBM in the 1950s. She made many gifts to people in need but always anonymously. At her death, Ms. Langtry left \$3.8 million to the Nature Conservancy of Canada.

Estates In The News

The late grunge rocker Kurt Cobain earned \$50 million in 2006 due to the sale of a 25% share of the Nirvana song catalog to a music publishing company by Cobain's widow, Courtney Love. This moved Cobain to first place on the *Forbes* list of top-earning dead celebrities, temporarily displacing Elvis Presley, who earned \$42 million. Charles Schulz was in third place with \$35 million, followed by John Lennon at \$24 million and Albert Einstein with \$20 million as a result of licensing deals such as the "Baby Einstein" educational videos.

The Forbes family sold a 40% share of its business to an investment group for an amount between \$200 million and \$300 million.

Marlon Brando's estate was sued by the actor's former caregiver over a broken oral contract to deed a house to her.

A group of 13 nieces and nephews of Rosa Parks have petitioned a probate court for control of the estate to prevent mismanagement of its intellectual property.

Philanthropist Brooke Astor, now 104, had been cared for by her son, Anthony Marshall, 82, but he was replaced as legal guardian after Astor's grandson filed suit alleging neglect.

Ernest Hemingway's Home and Museum in Key West had featured six-toed cats that were descended from Hemingway's pet, Snowball. Until now, the cats, with names like Trevor Howard, Mark Twain, Charlie Chaplin, Frank Sinatra, and Ava Gardner, roamed free. But after 42 years of the museum's operation, the U.S. Department of Agriculture says the cats are display animals which must be caged. Court proceedings are anticipated.

Aston Barrett, a bass player in Bob Marley's band who has 52 children, is suing Marley's estate for \$105 million.

Kevin Federline, aka "Mr. Britney Spears," was "kicked to the curb" (that's rap-speak for "divorced"), but if a prenuptial agreement holds up, he will probably walk away with only \$300,000 from Ms. Spears' assets of about \$150 million. Meanwhile, Ms.

Spears has left instructions in her will that she is to be buried with her pet dog.

Melvin Dummars was back in court, 28 years after his unsuccessful effort to get a \$156-million share of the estate of Howard Hughes based on a holographic document which a Las Vegas jury said was forged. Dummars now claims to have a new witness who can substantiate that heirs of Hughes withheld evidence about the travels of Hughes.

The daughter of Ted Williams is suing the San Diego Hall of Champions Sports Museum to recover trophies and memorabilia. Similarly, John Wayne's children and grandchildren filed suit against Wayne's long-time business company to locate memorabilia. Richard Pryor's children are suing the late comedian's widow.

Outrages

Unforgiven: Enron's Kenneth Lay was convicted of fraud and conspiracy that caused thousands of people to lose jobs and wiped out \$2 billion of retirement funds, and \$60 billion of investments. But because he died during the appeals process, his conviction was erased. Lay has claimed that his net worth peaked at \$400 million before Enron failed and fell to negative \$250,000 during his trial and that he still owed legal bills. The Justice Department may seek a portion of Lay's estate through civil courts, but it will compete with many other litigants. Lay's wife is entitled to half of the estate and will be able to protect her share from seizure.

Defending Wendy: In 1929, Sir James M. Barrie gave the copyright of "Peter Pan" to a London hospital. A 1988 law made the copyright permanent. The copyright has been the subject of dispute in the United States where it will expire in 2023. In Europe, the copyright expires in January, 2008. A series of "Lost Girls" books by Alan Moore involves the raunchy adventures of Wendy from "Peter Pan," Dorothy from "The Wizard of Oz," and Alice from "Alice's Adventures in Wonderland." Moore states that he does not need permission to publish his work in Britain. The hospital disagrees. It appears to be a circumstance that even the imagination of Sir James could not have foreseen.

Don't Shoot The Probate Attorney!: In 2003, a disgruntled beneficiary was caught on film outside a California courthouse firing round after round at probate attorney Gerald Curry who was seeking refuge behind a tree. We are pleased to report that Mr. Curry has recovered from multiple gunshot wounds. In 2006, the assailant was sentenced to life plus 25 years.