Coordinator: Thank you. Our first question comes from Wendy Sanchez.

W. Sanchez: This is for Larry. When you said about the estate tax, what percentage is that that they take? Is it a certain percentage that they can do?

L. McKoy: Wendy, thanks for the question. Yes, there is a percentage, and it’s going to vary by what state you live in and whether that state has an estate tax and the Federal government. But just as a rule of thumb, the Federal laws, which all states have to deal with, once you get past $1.5 million in today’s law…you won’t have to pay any estate tax until you reach that level. Then you can build up to approximately 49%. I'll make a reference that estate laws and taxes are expected to change in the next year or two, so if you’re doing any type of tax planning now, I’d be very careful to watch for tax law changes in the next couple of years because I think we’ll see the whole structure of estates change.
J. Walstedt: I would think, Larry, with the value of housing going up, people may have bigger estates than they think they do.

L. McKoy: That’s a great comment, Jane. If you look at a typical person, let’s take any of you, you’ve got a house and let’s say that’s worth a couple hundred, three hundred, four hundred thousand. At work, you’ve got life insurance that you just kind of sign up for, and it’s three or four times your earnings. If you’re married and your spouse has the same, the next thing you know you start adding little things in and it doesn’t take long to add up to a fairly decent size estate.

Coordinator: We have a question from Janice Davis.

J. Davis: First, I appreciate all the discussion. I’m anxious now to get started on the whole estate planning part for me and thinking about it for my parents.

My question is -- It seems like we’ve heard from the certified public accountant, the financial planner and an attorney. I’m wondering with whom I should start. Would it be appropriate with any individual in those fields and just
asking if they do estate planning? Do you have any suggestions on that?

J. Walstedt

Beth and Larry, do either one of you want to comment? I think Suzanne was not able to stay for the question and answer portion.

B. Savage

I’ll comment first and then pass it over to you, Larry, if that’s alright with you. I think if you have a financial planner who is certified, someone who has experience in doing estate planning, that’s a good place to start because my job is to gather my [client’s] documents and then hand it off to the proper people. Larry will laugh at this, but I try not to practice being a CPA or an attorney without a license, and all the people I deal with in those areas try not to do my job, too. But my job is to get people thinking about it, to list it, to add it up. Larry is right. When you get to a million and a half dollars, then we’ve got a problem. But you could actually start with any of the three.

The real thing I think is important here is to just get started. You do need to deal with someone who has some experience with estate planning, just like you don’t go to a
foot doctor if there is something wrong with your head. You need to deal with someone who has some experience in these areas so they can guide you because the laws are very complex, and not everybody is well-versed in estate planning. So it would be important to get someone who has some experience in that area, particularly in your state, because each state is different. They all go back into the Federal law, but experience is a big factor. Larry, do you want to pick up from there?

L. McKoy Janice, I appreciate that question. It’s a great question because it’s a confusing one. Who do you turn to? I’d echo the discussion Beth had.

We sort of think of ourselves as a team, and all those players have different characteristics. We’re all used to being the first person you call so we’ll all be able to deal with the parts we know how to do and pass off the ones we don’t. I don’t draft wills, for example. That’s the practice of law. But I can help you as a CPA, and I’m also a financial planner, and in the CPA profession we have PFS, which is a personal financial specialist who specializes in financial planning. All these folks can help you get started.
I’d be wary of someone that’s not trying to help you with planning versus just one component. I’ll give you the example. I’ll pick on the lawyer since she’s not here. If you pick on a lawyer that only wants to do a document, but didn’t do planning, if you picked on a CPA that does taxes, but is not doing planning—planning would encompass all the things being discussed, not just the specialty of what appears to be that profession.

I think the three speakers today are versed in all of each other’s fields, but that’s not going to be the case when you pick up the Yellow Pages and make a phone call.

J. Walstedt

I know Suzanne, who couldn’t stay for questions and answers, and I had a discussion about whether there was an advantage to using an estate planning attorney versus an attorney in general practice. I wish she was able to stay, but she did say she’d be glad to answer questions by e-mail after the fact. If anybody has those, we could try to post the answers to them along with the audio and the transcript of the call. I just wanted to remind people-- because we’re covering a lot of ground-- that you will be able to listen to
the audio and read the transcript after the call. That’s a benefit to those who can’t listen in, but I think it’s also a benefit to people who are listening and are just overwhelmed by the information. I know I find it helpful to go back after and read the transcript, and re-familiarize myself with what was said.

Coordinator  Our next question comes from Joann Harston.

J. Harston  Recently, my father-in-law passed. He did a transfer on death to one of the siblings on one of the accounts. He also updated his will, but unfortunately he didn’t sign the will. We assume there is an old will someplace but we can’t find it. My question is, since there is no actual signed will, will all his assets go into probate, with the exception of the TOD?

J. Walstedt  I don’t know if Larry or Beth, do you all feel, since you’re not attorneys, qualified to answer that? You can speak for yourselves. Otherwise, I suggest the listener send us an e-mail questions we’ll forward to Suzanne Gellman.
L. McKoy

Let me address that for the sake of the listeners. Anybody who has a real need to know more, I would suggest you e-mail Suzanne. The legal part of the question will be, “Without that will, what options do you have?” I think you’ll find that without the will, there is a period of time to produce that will, the one that is the original, and there is only one that will be the original. Without that, you revert back to the court system. Once that time period is gone, that will can no longer be brought into play. [E-mailed response subsequently received from Suzanne Zemelman Gellman: If the father-in-law’s will was not signed, it is not valid. Whether a person has a will or dies intestate (without a will or trust), their estate goes through probate. The only estate planning document that bypasses probate is a Trust. Whether the will is found or not (if it was a will and not a trust), his estate will go through probate, except for any asset that was pay on death, transfer on death, had beneficiary designations, etc. If a prior will that was not destroyed is not found, the assets that are in the father-in-law’s name alone will be distributed according to the laws of the state in which he resided.]
You made an important point I wanted to emphasize, and that’s the pay on death clause. There are several different names for that, with financial institutions that, say I have a checking account—if I die, who gets it? I have a CD—if I die, who gets it? I have a securities account—if I die, who gets it? That has nothing to do with the will. Your joint property, your beneficiaries, your pay on death clauses, you have essentially written the will for that asset that is going to go directly to that person. You did correctly state that that has nothing to do with the will that’s missing.

That is something you have to be extremely careful [of] -- that parents, friends, etc,-- when you go and you’re sitting in a branch office of a bank setting up a CD and they ask who you want to get this at your death, that trumps your will. It has now created who gets that asset and has nothing to do with the will anymore. I can’t tell you how many times—I’ve got a meeting in the morning on this same issue where the will says I’d like all my assets to go, perhaps [be] split among children. But those pay on death clauses, it’s not unusual to be either the older of the children or the one that seems the most financially savvy or
the one that lives the closest. That’s who will get those assets.

B. Savage  That actually happened in my family. My father-in-law tore his will up in the hospital and didn’t leave one, and we went into probate. My husband is the eldest. It was his responsibility. He ended up dealing with his mother, who was not financially savvy. There is more than just money involved. It’s a very emotionally traumatic thing to have occur. My husband’s response was, “I loved my father dearly, but if I could get my hands on him, I’d wring his neck for the mess he left,” because of the fact that there were a great many things he had to sit down with his mother and handle because his father meant to do the right thing but just never re-signed that will. It created a terrible emotional shock at a time of sorrow anyway. So here she was, and he was dealing with this at the same time.

There is the financial side and the emotional side, and you want to take care of both. Larry is right. No will, and we’re straight into probate.
L. McKoy  
Let me make a follow up comment that perhaps you’re not familiar with out there. You can have a lot of love in a family. When financial assets are on the line, it can make creatures out of people you don’t recognize anymore. If there is really dollars out there, don’t be surprised if it creates a tremendous wedge in the family, splitting people apart. As planners, one of our jobs--and hopefully you in designing your estate plan--[is to] never create that friction or a situation where a brother and a sister, a mother and father, a father and daughter ever have to be at odds with one another over financial affairs.

J. Walstedt  
Thank you, good point, Larry. I wish we had more time. We’re at the top of the hour. I’ll turn it over to Gail Patterson for closing remarks. Thanks everybody.