

# HIGHPOINTS

A PUBLICATION FROM HIGHPOINT LAW OFFICES

  
**HIGHPOINT**  
LAW OFFICES PC  
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## USEFUL LINKS

**HIGHPOINT WEBSITE**  
SEE CONTACT US! BELOW

### FRIEND US ON FACEBOOK!

WWW.FACEBOOK.COM  
(SEARCH FOR PETER  
GILBERT IN THE  
PHILADELPHIA NETWORK)

### HIGHPOINT LAW OFFICES MEET-UP PAGES

WWW.MEETUP.COM  
(SEARCH "BUCKSMONT  
RESPONSIBLE PARENTS"  
WITH ZIP CODE 18914 OR  
"WEALTH  
PRESERVATION MEET  
UP GROUP" WITH  
ZIP CODE 18914)

### HIGHPOINT LAW OFFICES UPCOMING EVENTS

GO TO OUR WEBSITE AND  
CLICK ON THE  
UPCOMING EVENTS TAB

## A NOTE FROM PETER....



Happy New Year!  
Regarding the economy...

Some see it as a tale of two numbers: 11,497.12, and 10,428.05. The first number is the Dow Jones Industrial Average for 12/31/1999; the second is the same index for 12/31/2009, exactly ten years later. By the way, the figures for the S&P 500 are 1,469.25 (12/31/99) and 1,115.10 (12/31/09). So how does this affect you...well in one way your IRA may not be producing the way it used to be for you.

We've been helping many more people recently set up "Self-Directed" IRAs, and that change appears to be happening for two reasons: First, many more people can now set up Roth IRA accounts; and Second: many people are looking for different ways to invest their IRA funds.

We're planning events next month to educate people about opportunities with Self-Directed IRAs, so they can understand what's possible legally, and what kinds of investments would be open to them with a Self-Directed IRA, whether it's a Roth or a Traditional IRA account. We are excited to be offering this educational event and hope you can join us. Check the upcoming events section for dates and times.

Now let's turn to a really fun subject - the estate tax mess, and what we're doing about it: Here's a summary from CBS Market Watch:

"At first glance, the failure of Congress to plug the 2010 estate tax loophole appears to be good news for children of ailing rich parents — and of little consequence to everyone else. But in fact, by letting the tax lapse, Congress has created a bunch of unintended consequences and increased the chances that you will owe taxes on an inheritance. Yes, the perverse result of the disappearing estate tax is that some people of lesser means may owe capital gains taxes on inherited assets. What's more, since many wills and trusts are written on the assumption that the estate tax exists, a will that made sense last year (or any other year, for that matter) could result in your surviving spouse getting shut out of your estate."

But wait, there's more:

- Both the estate tax and the generation-skipping transfer tax (on assets given to grandchildren) were repealed at the end of 2009.
- Both taxes are scheduled to return in 2011 at the unfavorable rates that applied 10 years earlier. The amount that is exempt from each of these taxes will then be \$1 million, and the tax on the rest will be 55 percent.
- There is still a gift tax if you give away more than \$1 million during your lifetime, but the tax rate has been reduced from 45 percent to 35 percent.
- Heirs will now have to use the original price paid for an asset when computing their tax liability, instead of the value upon the owner's death. This change of "cost basis" could be very expensive, and difficult, for heirs. For example, if you inherit shares of Microsoft that your father accumulated over many years, you might be stuck hunting for all his transaction slips and adjusting for stock splits along the way (a potential nightmare). And when you sell any of the shares, you may owe capital gains tax on the appreciation. Each estate can exempt \$1.3 million of gains from this carryover basis rule, as it's called. Another \$3 million exemption applies to assets inherited from a spouse.

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### CONTACT US!

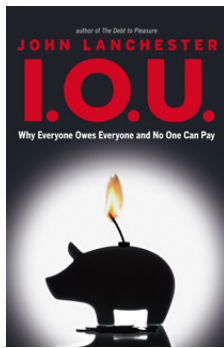
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## RECOMMENDED READING

I.O.U. BY JOHN LANCHESTER

REVIEW BY TINA JORDAN, ENTERTAINMENT WEEKLY



“I’ve been following the economic crisis for two years now,” Lanchester writes in his introduction. “I began working on the subject as part of the background to a novel, and soon realized that I had stumbled across the most interesting story I’ve ever found.” So the celebrated novelist (*The Debt to Pleasure*) leaped into nonfiction, combining prodigious research and reporting with his storytelling gift. The result is the elegantly crafted *I.O.U.*— equal parts history, economic primer, and social commentary — that manages to be, by turns, acidic, frightening, and sharply funny. What it is not is boring. In fact, this is a better book about the global meltdown than any other to date — and some of our best financial and business writers have weighed in on the subject.

Before dipping into it, I had processed the 2008 crash in only the most basic sense (subprime mortgages: bad! My retirement account: devastated!), but now I see the vast underlying skein of causes — lax governmental regulation, cheap credit, and most of all, human nature (of bankers, he writes: “They behaved like drivers who regarded speed limits as things to be obeyed only by Muppets”). Thanks to Lanchester, I finally understand what swaps and derivatives and zombie banks are, not to mention much more complicated things like Gaussian copula functions. He explains everything so lucidly, so simply, refracted through the lens of history for perspective, that it all makes perfect sense. It also makes me think we should just replace bankers with novelists straightaway. I’ll tell you one thing: I wish he’d been the one in charge of my 401(k) these last few years. Better yet, the one in charge at Goldman Sachs or Bank of America.

## FEATURE ARTICLE

Why Clients Should be Extra Frugal with Their Special Needs Children  
by Legacy Counsellors, P.C.

Special children will require special planning.

One of the risks that a family with a special needs child may have is that a well-meaning loved one could accidentally disqualify the child from receiving government benefits.

For example, Joe is 22 years old and suffered a birth defect that left him unable to walk or have full use of his hands. He lives in subsidized housing. He is able to make ends meet.

Sometimes his parents help him with money, but Joe also receives a monthly Supplemental Security Income payment of \$800.

Joe’s parents created a first party Special Needs Trust (SNT) to provide for his care and needs. Recently Joe’s Aunt Mary died. Unbeknownst to Joe’s parents, Mary left Joe \$60,000.

Her thoughtful gesture ended up creating serious problems for Joe. He suddenly had more than \$2,000 in the bank, and as a result he was disqualified from receiving aid.

This is a real problem for a special needs family and it needs vigilant advisors.

(Continued on page 3)

## UPCOMING EVENTS

Upcoming  
Complimentary  
Workshops at  
HighPoint Law Offices:

“Estate Planning  
Essentials”

Tuesday, February 2, 2010  
at 7:00pm

Wednesday, February 3,  
2010 at 2pm & 6:30pm\*

Tuesday, February 16,  
2010 at 2:00pm

Wednesday, February 17,  
2010 at 2:00pm & 6:30pm\*

(Asset Protection and  
Medicaid Planning)

Tuesday March 2, 2010 at  
7:00pm

Wednesday, March 3,  
2010 at 2:00pm and  
6:30pm\*

Tuesday March 16, 2010  
at 2:00pm

Wednesday, March 17,  
2010 at 2:00pm and  
6:30pm\*

(Asset Protection and  
Medicaid Planning)

Call 215.997.9773 to  
reserve your seat today!

Workshops marked with  
an \* are in Allentown, PA  
at the Allentown Public  
Library. Call for directions!

## Strategies for the Special Needs Family

In this case, there are a number of strategies to help Joe benefit from his Aunt Mary's gift and still keep his aid:

1. The first party Special Needs Trust that Joe's parents created includes a state reimbursement or "payback" provision. Joe can transfer the monetary gift from Aunt Mary into the Trust. Eligibility is undisturbed.
2. Joe can spend all the money before the end of the month in which it was received.
3. Joe can purchase or invest in exempt resources, such as an automobile. If Joe inherits more money, he can buy interest in a residence.

### Consider the Consequences of Large Gifts

Had Aunt Mary instead left the money to the SNT created by Joe's parents, there would have been no disruption in or threat to his eligibility for certain services.

Aunt Mary could have also designated different residual beneficiaries than those identified in the SNT prepared by Joe's parents. Arguably, every SNT should include provisions allowing the establishment of separate accounts.

The trust should also specifically state that no accounts will be mutually maintained by individuals other than the settlers - unless the donor has specifically mandated their inclusion.

It's important that parents let their friends and relatives know about the Special Needs Trust they formed for their special needs child. Parents should also make those loved ones aware that any contributions they wish to make need to go into that Trust. That way the child's access to public benefits won't be jeopardized.

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### Garlic-Basil Shrimp

Recipe Found in *The Costco Connection*, January 2010 issue and *So Easy*

#### Ingredients:

- 2 tablespoons olive oil
- 1 1/4 pounds large shrimp (20 to 25 per pound), peeled and deveined
- 3 garlic cloves, minced
- 1/8 teaspoon crushed red pepper flakes, or more to taste
- 3/4 cup dry white wine
- 1 1/2 cups grape tomatoes
- 1/4 cup finely chopped fresh basil
- Salt and freshly ground black pepper to taste
- 3 cups cooked orzo pasta, preferably whole wheat



#### Directions:

1. Heat the oil in a large heavy skillet over medium-high heat until hot but not smoking, then add the shrimp and cook, turning over once, until just cooked through, about 2 minutes. Transfer with a slotted spoon to a large bowl.
2. Add the garlic and red pepper flakes to the oil remaining in the skillet and cook until fragrant, about 30 seconds. Add the wine and cook over high heat, stirring occasionally, for 3 minutes.
3. Stir in the tomatoes and basil and season the sauce with salt and pepper. Return the shrimp to the pan and cook just until heated through. Serve with the orzo.

## ***PLANNING FOR THOSE WITH DISABILITIES OR SPECIAL NEEDS...***

### ***The facts...***

***In the past, families would disinherit disabled family members and leave assets to someone else who agreed to “take care” of them. If assets are left to a disabled beneficiary, it could disqualify them from the state or federal programs they are receiving. In 1993, Congress enacted new laws that entitled disabled individuals to derive the same estate planning benefits as non-disabled individuals without affecting their eligibility for state or federal benefits. The law created Supplemental Needs Trusts, which enable you to leave any amount of money to a loved one who has special needs without affecting their eligibility for the state or federal benefits they receive.***

***The law further provides the trust proceeds must be used to provide luxuries for the disabled individual he or she would not otherwise receive under the state and federal programs. Luxuries can include trips, computers, power wheel chairs, prosthetics, or other comforts not generally provided by the government.***

***A Supplemental Needs Trusts can be created by an individual with their own funds or be created by someone other than a disabled individual, typically a parent or relative.***

***There are different rights and restrictions to each of these trusts, but both ensure immediate qualification for federal and state benefits (i.e., Medicaid) and provide luxuries to the disabled beneficiary they, otherwise, most likely, would be unable to have.***