



IRS ISSUES  
GUIDELINES FOR  
NQ DEFERRED



PRICE RAFFEL &  
BROWNE  
AT YOUR SERVICE



A PERSONAL  
VIEWPOINT...



*“The Choices in Pension  
Benefits Just Changed”*

With compliments of:  
**Ian S. Baker**

FINANCIAL • BENEFITS  
**DECISION MAKER**  
SUMMER 2005

**ESTATE PLANNING**  
**Changes Spur PRB Reviews  
with Clients, as Laws,  
Regulations are Enacted**

As estate tax and other estate law changes are enacted by Congress, Price Raffel & Browne (PRB) professionals are reviewing our clients' Estate Plans to check for compliance and for up-to-date approaches. Some recent issues to be concerned about include:

1. Gifting Strategies: This year \$11,000 per individual is allowed without gift tax. Some clients are opting for using tax free 529 education savings plans with multiple year gifts at once, others are not making gifts until the market swings upward with more momentum. The options deserve your-and our-attention.
2. Expiring laws: Twenty-six states have let estate tax laws expire. Is it time to move, to set up permanent residence elsewhere, like Florida? New York's marginal estate-tax rate is up as high as 16%!
3. Rising Ceilings: The \$1.5 million estate tax exclusion is rising as Congress approaches 2011; the year the estate tax system is due for an update. Strategies need to change accordingly, especially for high net worth clients.
4. Proxy: Your Health Care Proxy rules changed in 2003. Access to your records is now limited. Clients need to act to ensure the viability of a non-spouse's ability to obtain your medical history and related documents. And there's more.

*For these and other critical review areas, please call 212.867.7730 to set a review.*

**Price, Raffel,  
Browne Announces  
Executive Appointment**



Financial services veteran Mitchell Wm. Ostrove has joined Price, Raffel, Browne, Inc. (PRB), leaders in financial services, pensions and benefits. He will work from the firm's Westchester offices to serve PRB's national clientele.

Mr. Ostrove, who has served as Chairman of Ostrove Group, joins Price Raffel, Browne as a Partner. A Cornell University graduate, Mitch obtained his Chartered Life Underwriter (CLU) and Chartered Financial Consultant (ChFC) designations and has been a life and qualifying member of the Million Dollar Round Table (35 years). Mr. Ostrove served on the Advisory Board of the Top of The Table, chaired its Estate Planning sessions and its number one rated Main Platform for the 2001 annual meeting. He served as the 2002-2003 President of the Million Dollar Round Table Foundation. He was the Founder and first President of the Westchester County Chapter of CLU & ChFC, the Westchester Life Underwriters' Association, Estate Planning Council of Westchester and the Life Underwriters Political Action Committee for New York State. An active volunteer in Greater New York, Mr. Ostrove has served as Chairman of The Men's Division of Albert Einstein College of Medicine, Trustee of Temple Israel of New Rochelle, Commissioner of the New Rochelle Youth Bureau, and vice-chair of the Westchester UJA/Federation Campaign. He has received The Fred E. Hamilton Award, The Lester A. Rosen Humanitarian and Achievement Award, The Spencer L. McCarty Award, UJA/Federation Insurance Man of the Year, Temple Israel UJA Honoree and the top Quality of Life award by the Million Dollar Round Table Foundation.

We welcome Mitch Ostrove to our team.

## IRS Issues Guidelines For Non-Qualified Deferred

Employers must administer non-qualified deferred compensation plans in "Good Faith Compliance" with Section 409A as of January 1, 2005

The IRS has issued Notice 2005-1 to give guidance to employers in interpreting Section 409A of the Internal Revenue Code, added by the American Jobs Creation Act of 2004. The Notice states that in order to avoid adverse tax consequences, employers must administer non-qualified deferred compensation plans in good faith operational compliance with Section 409A effective January 1, 2005. Plans must be amended to comply with Section 409A by the end of 2005.

The Notice addresses (1) the scope of Section 409A; (2) effective dates and transition; (3) change in control events; (4) exceptions to the prohibition against acceleration of benefits; and (5) reporting requirements for deferred amounts.



### Section 409A

Section 409A of the Internal Revenue Code applies to non-qualified deferred compensation plans. A "plan" includes any agreement, method or arrangement, even if the plan is for one individual providing for the "deferral of compensation": if the service provider has a legally binding right during a taxable year to compensation that has not been actually or constructively received and included in gross income, and that, pursuant to the terms of the plan, is

payable to the service provider in a later year. A right to compensation is not legally binding if the service recipient has the discretion to reduce or eliminate the amount of compensation unilaterally after the services have been performed. Section 409A is not limited to arrangements between employer and employee, and could extend to arrangements involving, for example, partners of a partnerships and independent contractors.

*If you are affected – or would like to know if you are affected – call PRB today to discuss.*

## Pension Changes Sought

The Internal Revenue Service is mulling rule changes allowing part-time employees to collect partial pension payments. Individuals must be at least 59 year old, under the proposal.

The proposal for the change in Section 401(a) of the IRS code came about because of employees who want to continue working and employers who want to keep them working.

"As people are living longer, healthier lives, there is a greater risk that individuals may outlive their retirement savings," according to the rules change proposal posted on the IRS Web site. "In addition, employers have expressed interest in

encouraging older, more experienced workers to stay in the workforce."

The proposal would allow "phased retirement" for employees 59 and older, although the exact retirement age would be dictated by the terms of an individual's pension plan.

Under the proposal, employees could collect partial pensions if they continue to work part-time. An employee working at 80 percent of his former work hours would be considered 20 percent retired and entitled to collect 20 percent of his pension payments.

The payments would be deducted from the total payments due to their employee under the pension plan, although the time would also count as years of service for pension benefits.

Employees would have the possibility of remaining on the company's medical plan during that time.

We welcome inquiries.



# PRICE RAFFEL&BROWNE *at your service.*

## PENSIONS:

PRB is responsible for thousands of retirement plans, for employees of some of the nation's leading corporations.

We know the pension market well and have the strength that comes with profound, specialized experience.

## BENEFITS:

We create employee benefit programs for many of these same corporate customers and also for individual clients with whom we shop for the best options available...and deliver them.

## Your Strategic Team Leaders



## INSURANCE:

Insurance is not what it used to be. The flexibilities, the options, the costs, and the benefits vary widely. PRB has led the way in insuring clients' lives, families, businesses and health since 1972. Today, PRB is a highly respected leader in the insurance industry.

## FINANCIAL STRATEGIES:

PRB knows that the common denominator in financial planning is creating the financial strategy and executing the actual program that is right for *your* valued clients. It takes time, care, knowledge and commitment – hallmarks of PRB's leadership in financial decision making.



PETER C. BROWNE



KEVIN M. BROWN



IAN S. BAKER



MITCHELL Wm. OSTROVE

## A Personal Viewpoint...

Financial decision making is a form of shopping, comparing, *conferring*, weighing, *conferring*, deciding, *conferring*, acting...and then *conferring* on an ongoing basis. It's not always a fun process and its rewards are not immediately realized. Yet, the pleasure that comes with financial security, with careful, thoughtful decision-making for the benefit of family, business and spouse gives a profound and lasting satisfaction. The process of viewing options and formulating strategy with the top professionals in the business creates a pathway toward success together.

Price Raffel & Browne's reputation as leaders in financial decision making is the result of our approach: we are process/goal not sales/product driven. Therein lies the decision-making advantage our clients enjoy and profit by. For PRB, the strategizing we do is not simply a long detour to an eventual off-the-shelf product. Our analytical expertise, our tailored programs and the excellent companies with which we design and implement financial plans make the PRB formula work for our clients.

Our quarterly publication, *Decision Maker*, runs through some points worth reviewing with us. In fact, we welcome reviews with clients often, so we can "keep up" and "keep sharp" together.

Call me to reflect together on any kinds of financial options you are weighing...or just to say "hello".

All the best,

*Ian S. Baker*

Ian S. Baker

*PS—Feel free to pass our newsletter along any way you wish.*



IAN S. BAKER

**PRICE RAFFEL & BROWNE**  
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