

Attorney Peter Herbst's Legal Expertise on the Intricacies of Estate and Tax Planning

On Wednesday, January 20, 2021, Attorney Peter Herbst of [Herbst Law Group, LLC](#) was a guest on the Communication Commandments podcast show, hosted by Kimberly Calvi of [Boston Edits, LLC](#). The informative and animated podcast focused on two niche areas within his estate planning and tax planning law practice.

Attorney Herbst said that more than half of his clients rely on him to put together a plan that minimizes probate, minimizes taxes, and carries out their intentions. He said that this involves having detailed conversations about their specific circumstances, because they're planning what their final wishes are for their surviving family members. And—as he was quick to point out—no two situations are exactly the same. “Our job at Herbst Law Group, LLC, is to spend time with our clients and assess exactly what is going to work best for them.”

He also works with clients who have lost a loved one, to help them administer estates and trusts, manage estate tax returns and implement the plans, which were put into place during the deceased's lifetime.

Interestingly, Attorney Herbst holds a Master of Laws in Taxation. At first blush, this might seem like superfluous education. Quite the opposite. “In this practice area,” Peter affirms, “you tend to see more and more attorneys who have a tax degree, because whether it's a high net worth individual or income taxes, both impact clients at all different levels of wealth. It's great to be able to spot those opportunities when putting together an estate plan that actually saves money for the beneficiaries.” It's this practical education which allows him to offer enhanced value-add to his clients.

Citing an example of applying his advanced law degree, especially as it relates to skyrocketing real estate values, Attorney Herbst expressed that he's had a lot of conversations with clients who are thinking about selling property, whether it's property that they've lived in for fifty years or in which their parents have lived and raised their family for as many years. “There's many different factors to consider on whether or not it's an appropriate time to sell real estate. One of the big factors is that a property that parents may have purchased in 1963 for \$25,000.00, might now be worth \$1.2 million. If they were to sell it today, there would be a significant tax payout to the IRS at the closing table,” Peter illustrates. “Whereas if property is held until a parent passes away, owning that property, there may be opportunities to eliminate certain taxes. A lot of decisions are driven by careful and diligent tax planning, even if it's not the most important factor, it is certainly a large factor.”

Working with clients who are interested in gifting assets is another area in which Attorney Herbst specializes. Two of the more common reasons clients reach out to him for this purpose are to reduce taxes and to potentially protect assets in the future from creditors, or to be eligible for certain government benefits. In each instance, knowing how to apply the tax code continues to be an important value-add. As Peter highlights, “Gifting can be some of the more complex

work that we do because these plans often involve irrevocable decisions, where a client is going to sign a document and give up certain rights to property. We want to make sure that they understand the benefit of giving away something of that nature. This includes the negatives of what they are giving up and that a year from now, they're not going to have control over. Are they comfortable with that?"

Attorney Herbst addresses, as with any legal process, that there's never a shortage of documents, and estate planning and tax planning is no different. However, his office strives to make the process easier. "For every planning measure that we take, we try to condense it into an easily understood summary letter that outlines this, making sure that it's understandable to somebody who doesn't have a law degree or a tax degree. We have even used pictures and graphs! I always try to discern how a particular client is going to understand this information best," he revealed.

Sharing another, real example, he relays, "A client and his financial advisor came to me after conferring with a different attorney. The plan was great, but neither of them could understand it. Some of these summary letters, drafted by the previous attorney, just weren't clearly explaining how this was going to work. I quickly realized that my client had an engineering background, so I converted this plan into an Excel spreadsheet where I could show him how assets were going to be gifted, what percentages were going to each child, and the tax impact of all of it. It was very satisfying to push that spreadsheet across the table and just watch him have that moment when he finally realized what this plan was going to do," Peter beamed. By way of analogy, he continues, "Not only did he realize what that plan was going to do, but he knew it well enough from that spreadsheet that he could start changing it. It was like I taught him how to play the piano and then he just started playing his own songs."

Other complex estate planning situations he sees include second marriages. Again, no two situations are identical, so Peter is careful to make sure that individual goals are accomplished and tailored to each family situation. Some of the worst situations he's seen have involved a second marriage where each spouse brings children from a prior relationship to that marriage. And without really careful, thorough estate planning, things can go awry very quickly.

"One of the scenarios that I always think about is a plan where the husband in the second marriage passed away first. He had designated his wife, his second wife, as the beneficiary of all of his retirement accounts, which constituted more than half of his net worth. All of those retirement assets passed to his second wife. I represented one of his children who could not believe that was the intended result," he laments. "My client was heartbroken because Dad basically disinherited the children from all of those assets. Everything went to the second wife and the children from the first marriage did not have a very good relationship with her." It's a scenario like that which prompts Attorney Herbst to directly, and routinely, ask the husband, for example, that if the husband dies first, " 'Do you really want 50% of your assets to completely go outright to your second wife? Doing so means that your children might never receive a dollar of these benefits.' The value of a responsible estate planning attorney is that we

will ask those probing questions on the front end, to make sure that clients understand the consequences of their decisions.”

The ideal clients whom Attorney Herbst is well-positioned to assist, are families who are in the \$1 million to \$10 million range, who are planning around Massachusetts estate tax and who are looking for ways to minimize that tax and pass assets to family members outside of probate. And while estate planning and tax planning in all of the individual complexity each situation demands, Herbst Law Group, LLC does not handle any probate litigation. Instead, Attorney Herbst refers such cases out.

Located in South Braintree Square, in Braintree, Massachusetts, Herbst Law Group, LLC services clients from Boston, Metro West, and the South Shore. Currently hosting meetings via Zoom, clients can schedule an appointment with Attorney Herbst by logging on to <https://www.herbstlawgroup.com/schedule-a-meeting.html>. Signing meetings are held in person, to accommodate clients who need to sign in front of witnesses and a notary public. These meetings are strictly regulated within the confines of COVID-19 parameters. Attorney Peter Herbst can be reached at peter@herbstlawgroup.com or by calling 781-843-5034. His LinkedIn page can be found at <https://www.linkedin.com/in/peterherbst/>. His Facebook page is <https://www.facebook.com/herbstlawgroup>.

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