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Trust UPDATE



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Estate planning without taxes

Put your beneficiaries first.

The traditional “hot button” that motivates people to see their lawyers about estate planning is taxation. Death taxes — inheritance taxes, estate taxes, federal taxes, state taxes — have taken a notorious toll on unplanned estates over the years. With sound planning, that burden can be lightened or even eliminated. In many cases, the tax savings easily cover the cost of the attorney’s fees for creating the estate plan.

That hot button has cooled considerably this year, as the federal estate tax exemption equivalent is \$5.12 million through 2012. An exemption that large would seem to let most families of moderate wealth off the hook.

True, the exemption is scheduled to fall to \$1 million on January 1, 2013. True, Congress appears unlikely to address estate taxes in this election year. But the amount exempt from the federal estate tax has, throughout history, only increased. The top tax rates have gone up and down, but expanding the target of the tax beyond the very wealthiest of estates has never happened. If the higher exemption isn’t preserved this year, perhaps it can be retroactively restored next year.

Accordingly, families with less than \$5.12 million in assets may be forgiven for feeling that they are no longer a tax target. But estate planning has always been about much

more than tax planning. Estate planning has always been about financial protection for beneficiaries, with tax minimization just a means to that end.

If you haven’t attended to your estate planning, don’t use the excuse of tax uncertainties to put it off any longer.

Evaluate

To begin, you have to know what you are working with.

- **Inventory assets.** Your estate plan will have to dispose of everything that you own; otherwise, the state’s law of intestacy will apply. Include bank accounts, stocks, bonds, real estate, and business interests, of course. Don’t overlook insurance policies and retirement plan benefits.

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You'll need to know *how* as well as *what*. Know which property is owned jointly, which is owned outright.

- **Identify beneficiaries.** A surviving spouse and children are the usual persons to be protected. You may have more distant relatives to include, and you may want to remember some charities in your estate plan. Don't overlook the need to care for your pets after your death.
- **Check beneficiary designations.** If you have an IRA or an employer-provided retirement plan, then you already started on your estate planning when you made your beneficiary designations. These designations should be reviewed periodically, especially when there have been changes in family circumstances, such as death or divorce.
- **Weigh trust benefits.** Trusts offer a wide range of financial benefits, which are especially valuable when beneficiaries need help with money management. Trusts may be established and funded during life (the *living trust*) or in a will (the *testamentary trust*). See "Intro to trusts" below for more.

Estate planning checklist

- Inventory assets
- Identify beneficiaries
- Check beneficiary designations
- Weigh trust benefits
- Make a will
- Make a living will
- Execute a durable power of attorney
- Create a document locator
- Make arrangements for any safe-deposit box

Implement

The next steps require the advice of an attorney and the execution of legal documents.

- **Make a will.** Your will contains instructions for the disposition of your property. It also nominates an executor or personal representative to manage the settlement of your estate. See "Who will defend your estate?" on page

3 for a discussion of why we would be a good choice for this job.

- **Make a living will.** This document addresses your expectations for medical care at the end of your life. You may also want to execute a power of attorney for health care, to identify an individual to make medical decisions on your behalf.
- **Execute a durable power of attorney.** Identify an individual who can make financial decisions on your behalf.
- **Create a document locator.** Your family needs

to know where your will and powers of attorney are kept. Your executor will need to know the location of all your other important papers, such as tax returns, account statements, property deeds, and insurance policies.

- **Make arrangements for any safe-deposit box.** Very often a safe-deposit box is closed upon death and cannot be opened until probate. That makes it a poor choice for keeping documents that will be important at death.

These steps are not complete; they are simply suggestive of the ranges of issues that you will need to address in your estate planning.

Our invitation

We specialize in trusteeship and estate settlement. We are advocates for trust-based wealth management strategies. If you would like a "second opinion" about your estate planning, if you have questions about how trusts work and whether a trust might be right for you, turn to us. We'll be happy to tell you more. □

Intro to trusts

A great variety of financial protection strategies may be implemented with careful trust planning. Among the choices to evaluate:

Marital trust	Several options are available to provide lifetime asset management and financial protection for a surviving spouse.
Credit shelter trust	A married couple may expand the benefits of federal estate tax exemptions with this trust.
Support trust	For an adult child who needs a permanent source of financial support, with the trust principal protected from the claims of creditors, a support trust may provide a solution. The beneficiary's interest is limited to just so much of the income as is needed for his or her support, education, and maintenance.
Discretionary trust	The trustee has sole discretion over what to do with the income and principal, just as the grantor does before the trust is created. The beneficiary has no interest in the trust that can be pledged or transferred. When there are multiple beneficiaries, the trustee may weigh the needs of each in deciding how much trust income to distribute or reinvest, when to make principal distributions, and who should receive them. The trust document will often include guidelines on such matters.
Spendthrift trust	The beneficiary is forbidden to transfer any financial interest that he or she has in the trust and may not compel distributions.
Gift-to-minors trust	For young children, contributions of up to \$13,000 per year to this sort of trust will avoid gift taxes. A married couple together can set aside \$26,000 each year for each child or grandchild, so in a few years a significant source of capital may be built up. Assets may be used for any purpose, including education funding, and will be counted as the child's assets for financial aid purposes. The assets of a gifts-to-minors trust must be made fully available to the child when he or she reaches age 21. However, the child may be given the option of leaving the assets in further trust.

Who will defend your estate?

Winding up the financial affairs of an individual's lifetime is not a simple, linear process. Many of these phases overlap or occur simultaneously.

- **Inventory.** It's the rare individual who leaves a complete inventory of all of his or her financial assets and interests. Some assets are easy to find — bank and brokerage accounts with their regular statements, for example. Life insurance policies and retirement plan interests can prove more difficult to find. Interests in real property and closely held business can be the most problematic.
- **Asset management.** Investments must be monitored and income collected. Insurance must be purchased or maintained. Property taxes will need to be paid. Appraisals may be needed for collections, jewelry, or other hard-to-value assets.
- **Debt collection.** Money owed by the decedent at death must be paid by the executor, after the legitimacy of the debt is confirmed. Similarly, the executor must make diligent efforts to collect all funds owed to the decedent. Tact will be needed when the debtor is a family member.
- **Raise cash.** Estate management requires cash for paying expenses and taxes. But most estates consist primarily of property. That means the executor will have to decide what to sell and when to sell it to meet the estate's cash needs. This is where strong investment management skills can pay off. Funds should be raised without parting with the assets best suited for future family needs.
- **Pay taxes.** This year, federal estate tax returns are due on estates larger than \$5.12 million. An estate tax return will be needed for estates of this size, even if no tax will be due because of the marital or charitable deductions. Some states have much lower thresholds for filing state inheritance or estate tax returns; other states have eliminated their death taxes completely. A state tax return may be required for each state in which the decedent owned property.

In addition to the federal and state death taxes, the



executor will have to file the decedent's final income tax return and fiduciary income tax returns for the estate itself.

- **Distributions.** Delivering the estate assets to beneficiaries, or to trusts for their benefit, is among the easier and more pleasant duties that the executor must discharge. Still, beneficiaries often turn to the executor for financial planning guidance, for help in collecting benefits due that don't come from the estate, and for a sympathetic ear as they adjust to the loss of a loved one.
- **Accounting.** The executor's final task is to account for all money and property that has been received and disbursed. Therefore, accurate and detailed records must be kept from the beginning of the process.

We are ready to serve you and your family

Whom should you choose to settle *your* estate? We have the skills, the experience and the knowledge to properly handle the job of estate settlement. We are available, and we are impartial. We understand the nature of fiduciary responsibilities, and we know how to discharge them.

And for all this, our fee for settling an estate is generally comparable to what an inexperienced individual would receive. In some cases, our experience will help to reduce estate shrinkage, increasing the amount available for beneficiaries.

Would you like to learn more? Please call on us for more details about our estate settlement service. □

Questions to ask your executor

Here are a few key characteristics to look for as you evaluate the candidates for settling *your* estate:

- **Experience.** Has the individual or organization settled estates before? Is it part of their daily business routine? Have they been exposed to a wide range of estate

settlement issues over the years?

- **Skills.** Is the executor candidate familiar with modern portfolio theory? How about the prudent man rule? Will investment management issues be a problem, or can they be handled routinely?
- **Availability.** Will the proposed executor be ready to take on the job at any time? Is there a chance that illnesses, vacations, or career issues will interfere

with the job of estate settlement?

- **Impartiality.** Does the prospective executor have a financial interest in the estate? Will all parties consider the executor fair and impartial? Can the executor play a constructive role in settling any disputes that arise among beneficiaries? Choosing an executor is similar to hiring an employee, but the stakes are much higher.

Taxes on frequent fliers

The taxation of frequent-flier miles was in the news earlier this year. It seems that in 2011 some Citibank customers received substantial mileage awards for opening new accounts. In 2012, they received 1099-Misc forms, as Citibank had reported the value of the awards to the IRS. An award of 30,000 miles reportedly created \$750 worth of income to be added to Form 1040.

The IRS confirmed that Citibank's tax attorneys were correct, even though, in most situations, frequent-flier awards are not taxable. The key is whether or not the award is received as a rebate. In that case, it is a price adjustment, and it is no more taxable income than is the \$1,000 that a car dealer takes off the price of a car. If the award is a prize or a promotion, on the other hand, it is taxable income, just as receiving a prize on a quiz show is income.

Thus, miles awarded to an individual for purchasing airplane tickets are a rebate and not taxable. Miles for using a credit card are treated similarly. But miles awarded for opening a bank account or putting money into a mutual fund are taxable, as are miles awarded in sweepstakes.

The trickiest category is miles awarded for business travel. These are paid for by the employer but are credited to the employee. If the employee uses the miles for additional business travel, there should be no problem, but what if an award is cashed in for a personal vacation? The IRS studied the matter and announced in 2002 that it would not consider such usage of awards taxable. Perhaps the paperwork involved in keeping track of the mileage usage just isn't worth the effort.

Or is it? Reportedly, there are an estimated 15-20 trillion miles yet to be claimed by frequent fliers. If just 1 trillion of those miles are converted to personal use, and using the 2.5 cent-per-mile formula that Citibank used, that comes to \$25 billion of potentially taxable income. Hope that the IRS isn't reading this! □

Quoted

"Worried about an IRS audit? Avoid what's called a red flag. That's something the IRS always looks for. For example, say you have some money left in your bank account after paying taxes. That's a red flag."

— Jay Leno

"There's nothing wrong with the younger generation that becoming taxpayers won't cure."

— Dan Bennett

"What is the difference between a taxidermist and a tax collector? The taxidermist takes only your skin."

— Mark Twain



They're ready for retirement— are you?

Having the resources to be financially independent is a blessing, but managing those resources wisely can be a burden. These are unprecedented times for investors, and the financial markets can be treacherous.

Why not enlist our help with your investment management? We have an array of investment services to meet a wide variety of needs. We've helped many others; let us help you and your family as well.



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