

ESTATE PLANNING – DON'T PUT IT OFF

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July 1, 2005

Estate planning forces us to face the difficult issues of death, taxes, family dynamics, and financial matters. Not surprisingly, many people do not get motivated about estate planning until their peers begin to die. Unfortunately, this can be too late to maximize the value of estate planning. Now is the time to get a handle on your current financial situation and to gain clarity about what you want to happen with your financial legacy.

"It's not that I'm afraid to die,
I just don't want to be there
when it happens."
Woody Allen

Here are some of the basic elements that a good financial planner will be able to help you with:

- **Marital Deduction.** Property that is passed from one spouse directly to the other is deducted from the estate before estate taxes are computed. The deduction can be taken for property that passes through the will, through a living trust, as jointly-owned property, and by beneficiary designations such as retirement accounts. Property that qualifies for the marital deduction avoids estate taxes. In fact, an entire estate can be tax free, regardless of size, when passed to the surviving spouse. Of course, you might not want to take full advantage of the marital deduction.
- **Gift Giving.** A gift of cash or property can avoid both estate and gift taxes. Each spouse can give away \$11,000 per donee per year. Additionally, each person has a \$1,000,000 lifetime gift tax exemption for gifts above the \$11,000 annual exemption. It is best to give property that is likely to appreciate, so that the future appreciation is out of the estate.

When tithing, you might consider donating appreciated property rather than cash in order to get a deduction for giving an asset upon which you would otherwise pay. The religious organization can sell the asset and avoid tax – a real win-win situation.

- **Equalize Estates.** To maximize the benefit of the lifetime estate tax exemption (currently \$1.5 million for each spouse), be sure that each spouse has legal title to enough assets. Many couples have most of their assets in the name of one person or jointly-owned.

- **Marital Deduction Trust.** This trust, drafted to qualify for the marital deduction, pays income to the surviving spouse and becomes part of the survivor's estate.
- **The Bypass Trust.** Properly utilized, the Bypass Trust allows a married couple to avoid federal estate tax on a total of \$3 million (\$1.5 million each) of asset values. After the second spouse passes away, the trust remainder goes to the children or other named beneficiaries – not to the estate of the surviving spouse.
- **Qualified Terminable Interest Property (QTIP) Trust.** This trust protects assets for the next generation, like the bypass trust, but also qualifies for the marital deduction. A QTIP trust generally is used in second marriage situations when there are children from the first marriage who need to be considered.
- **Estate Planning for IRA Assets.** Inheritance rules differ for surviving spouses and non-spouses such as children or siblings (see *Inheriting An IRA Can Be Tricky*, Nov., 2004).

To round out the estate plan, you should also have a Health Power of Attorney, Financial Power of Attorney, and properly documented beneficiary designations on all IRAs, life insurance policies, annuities and the like.

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