

An estate plan may bring peace of mind

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What is an "estate"?

Everything you own. Here's a short list: your house, car, family heirlooms, personal possessions, retirement plans, bank accounts, collectibles, stocks, bonds, and much more.

An estate plan can allow you to transfer these assets to people you choose, after you die. It can minimize, or even eliminate, the large state and federal estate tax payments that would otherwise have to be paid after you die... before your heirs receive a single dime.

Remember, estate taxes are due only nine months after death, or after the death of the second spouse. And without adequate planning, your family could be forced to auction off personal items and family heirlooms just to pay your estate taxes. Also, business interests, real estate and other assets are vulnerable to estate taxation. And then there's probate, along with other potentially mind-boggling problems. Yet, all this can be avoided through proper estate planning, before you die.

But "I Already Have a Will"

A will is the fundamental beginning of an adequate estate plan. But in most cases, a will is simply not enough. Most people need a comprehensive plan, such as a Revocable Living Trust, to protect their personal belongings and financial assets for surviving loved ones.

First, though, you need an adequate, enforceable will, which should be drafted by an experienced attorney. That's the bottom line.

As for the rest, good estate management is about strategic tax, insurance and investment planning. Again, this should be done with the help of experienced financial professionals. These people include a certified elder planning specialist, insurance adviser, elder attorney and accountant -- your reliable, professional team of experts. Plan on building such a team. Many people already have, and they know the money spent in the beginning will amount to far less than all the money earned and taxes saved in the end.

Here's why: Without a solid estate plan, federal and state governments may take up to 60 percent of your lifelong earnings and other assets before your survivors get their remaining share. Without adequate planning, this kind of loss compounds the heartbreak caused by your sudden death, incapacity or long-term illness.

Can all assets automatically go to a surviving spouse?

Yes, if both spouses are U.S. citizens. However, this kind of simple transfer can lead to complicated estate problems. Ask your professional advisers for details and ask them to review your estate plan. Even if you already have an estate plan, significant changes have occurred in recent years regarding government regulations and tax laws.

While many of us carefully plan for income taxes, we often forget about estate taxes, assuming only "wealthy people" face estate taxation.

You may be wealthy by government standards, especially after years of real estate and investment appreciation, dual incomes, even the accumulation of personal items including furniture or that long-forgotten stamp collection.

If you haven't considered the whole package -- meaning, your entire, countable "estate" -- state and federal governments certainly will.

They use a calculation method called the "Unified Credit Amount." The UCA is simply the maximum, allowable value of assets that may be transferred tax-free to your surviving heirs -- before estate taxation kicks in. In 1998, the ceiling was set at \$625,000. The Taxpayer Relief Act of 1997 provides modest increases up to \$1 million by 2006, but not much more.

To get a better idea of where you stand, add up the value of your assets and start with your family home. When was it last appraised by a state-certified real estate appraiser? During the 1990s, alone, U.S. property values rose nearly 300 percent and more in certain regions! So, if you bought a \$150,000 home in 1980, for example, and purchased a few stock or mutual funds, the value of your estate already may be close to, or even beyond, the maximum unified credit amount. Without a good estate plan, most

everything else would be subject to federal estate taxes, although certain exclusions may apply to assets including farms and family businesses. Again, ask your team of experts for details.

Choosing an executor

After you die, this person tends to your estate and gift tax payments, which can range anywhere from the statutory 18 percent up to 60 percent. After taxes are paid, your executor will also "execute" the final distribution of any remaining assets to your heirs.

An executor could be almost any competent adult including a sibling, legal or financial adviser, business partner, spouse or friend. A "corporate" executor, such as a bank trust department, could also do the job, which can be quite a job.

A word of caution: inexperienced executors are often overwhelmed by their required duties, so it might be wise to consider a professional for the task.

Or, a professional "co-executor" could be named from your professional team to help a chosen friend of family member.

Court appointed guardians vs. living trusts

Let's say you become incapacitated, losing the ability to handle your own assets and health care decisions. Without advance planning, those decisions go to a court-appointed conservator or guardian, who wouldn't necessarily be a friend or your chosen family member.

Ask your team of experts how to avoid this situation with an instrument called a "living trust." It allows you to choose your own guardian, permitting the guardian of your choice to continue managing your assets after catastrophic illness strikes -- all according to directions you approve today.

Probate is a process used by courts to enforce provisions of your will. Yet, poorly written wills often make probate a long, tedious and costly process.

Also, details about your personal finances become open to public scrutiny, which may lead to various problems.

How do you avoid probate?

The probate estate essentially holds assets listed solely in the name of the deceased. As an alternative, life insurance proceeds can be passed directly to your intended beneficiary by contract, thus avoiding the courts. In fact, several types of retirement investments have similar provisions, while other assets -- such as your home -- can automatically pass to a surviving joint tenant or spouse by right of survivorship.

To avoid probate, where appropriate, it is most important to consult with your team of estate planning professionals when exploring the alternatives.

Estates passed to children/grandchildren

At death, you can leave your estate tax-free to children or anyone other than a spouse, as long as you have not used up your unified credit amount exclusion during your lifetime. The maximum limits of the UCA exclusion still apply, however, meaning federal estate taxes would apply to additional assets. As for gifts allocated to grandchildren, a "generation-skipping" transfer tax may apply.

Gifts more than \$10,000 a year to your children, or anyone else, will trigger the federal "gift tax." Acting together, both spouses can gift up to \$20,000 a year to an individual without gift tax consequences.

If federal guidelines are properly followed, gifting would not affect your Unified Credit Amount exclusion. However, several valuable alternatives may be explored with a specialist and a qualified attorney through the use of various trusts and investments.

Valuable tax deductions stem from estate plans using certain charitable trusts. These trusts allow you to pass money to your children and charitable institutions, while you come out ahead on estate and income taxes. Ask your estate planning team for details.

With estate planning you must have all necessary materials at hand, everything from wills and bank statements to other financial documents. Your professional advisers could provide a check-list before you get started. Then, your advisers will review this information with you and provide invaluable recommendations before you decide how to implement your estate plan.

Good estate planning tends to be overwhelmingly complex, even for knowledgeable amateurs. That's why you need the vital resources of an Accountant and or Attorney, also a CEPS and insurance specialist. These people will provide invaluable help to you and any concerned participants you may choose amongst your family members.

The end result could save a fortune in assets lost to probate, creditors, and taxes.

So, if your assets amount to more than the Unified Credit Amount, or if you expect the value of your estate to surpass the UCA during your lifetime, your estate plan should be handled by qualified, experienced professionals.