Proactive Estate Planning

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It's fair to say that accumulating wealth is a primary goal for most investors; but the flip side of the coin is proactively preparing for the distribution of your legacy. Drafting an estate plan can help maximize the growth of your assets while minimizing estate taxes for your beneficiaries.

An estate plan is an important component of any solid financial plan, and can help accomplish several goals, including:

- Help ensure that the surviving spouse has enough assets to live on for the balance of his or her life.
- Pass property to your heirs in an orderly fashion, so that it's not a free-for-all.
- Reduce the expenses and taxes assessed when the surviving spouse passes on.

Sharing key elements of your estate plan, along with your financial philosophy, values and goals as part of an organized family meeting, can provide a forum for beneficiaries to ask questions and become comfortable with the plan — even if they don't agree with it. This, in turn, may help reduce future conflict.

A comprehensive estate plan includes everything from a living will to a health care proxy, from a letter of instruction to a durable power of attorney. Setting one up should involve the expertise of your attorney along with your financial planner, who can introduce you to a variety of tools for allocating wealth. (Use the 10 questions at the end of the article to help guide the conversation with your financial planner.) As you think about your plan, there are several essential components that you should keep in mind.

Drafting a Will
Though a will is the most basic estate planning tool, only 40 percent of U.S. citizens have drafted one, according to the American Bar Association. If you don't create a will, the state will arrange one. Each state is different and tries to come up with a socially acceptable game plan for people who die "intestate," or without a will. But they don't consider the variety or size of assets when devising a distribution strategy, and will probably treat your assets differently than you would.

While a will is essential, if you die leaving only a will, your estate will go to probate court, which is very expensive and time-consuming. Having trusts that work alongside a will, to specify who gets what, and when they get it, can help avoid this process and protect your assets from state or jurisdiction rules.

Create Trusts
In addition to avoiding the probate court process, a revocable trust has many benefits. It puts safeguards in place should one spouse become mentally incapacitated, clarifies property distribution, protects assets from in-laws, divorce settlements or creditors, and aids tax savings. It is impossible to do estate tax reduction planning without a will and a trust. Other than perhaps the cost of setting one up, there are no cons to designing a revocable trust because while both

spouses are alive and mentally competent, a signed statement revoking the trust puts you back at square one.

When designing trusts, it is important not to over-engineer them, but to design them to be flexible. Trusts that allow your children to use the funds for different purposes as the balance of their lives plays out are often more beneficial.

Have a Tax Plan

Though you may leave an unlimited amount of money and assets to your spouse estate tax-free, neglecting to remove some of the assets from your estate, increases your surviving spouse's taxable estate. The result is that your heirs are likely to incur more estate taxes. Transferring wealth early to reduce the size of your estate can provide some benefits while helping to reduce your current tax burden.

Each person can give another individual $12,000 annually utilizing the annual gift tax allowance — with the value and the growth on these gifts not being subject to taxes. In addition, each benefactor has a one-time $1 million dollar gift tax credit exemption.

In addition, larger gifts of property made in the right way, using discounting techniques, cause the estate tax law to regard the property as being far less valuable than it really is. This maximizes the value of the assets for the beneficiaries, as the result of having achieved the best possible tax result.

Once you've drafted an estate plan, you'll want to review it at least annually to ensure that you are meeting your goals, and/or to do the necessary fine-tuning to get back on track. Additionally, major life events should trigger a review of the current estate plan and its goals. These include the birth of children or grandchildren, the death of a spouse, divorce, remarriage or retirement. And, when your net worth changes significantly, additional planning may be required in order to properly protect your assets.

ADDING IT UP

These ten estate planning questions can help guide a conversation with your financial planner and your tax advisor about the future of your assets.

1. When the survivor of us passes on, what will the estate settlement costs amount to?
2. After the first spouse has passed on, will there be sufficient assets in order to meet the surviving spouse's needs?
3. We have simple wills; given our circumstances, is there any benefit to having revocable living trusts as well?
4. When it comes to paying the estate settlement expenses that cannot be planned away, what are our alternatives, and which ones make the most sense for us given our circumstances?
5. How can we pass property to our children in such a manner that it may enjoy maximum potential protection from our children's creditors, divorcing spouses and unnecessary estate taxation?

6. How can we give property to our children in such a manner that its value will be discounted for estate tax purposes? How does this work?
7. After the survivor of us passes on, how can we bequeath our property so that our children and our favorite charities will benefit?
8. Are our qualified plans and IRAs set up in such a manner that our beneficiaries will enjoy the maximum tax deferral possible on these accounts?
9. Should we consider creating one or more life insurance trusts?
10. Our family-owned business comprises the bulk of our net worth. Only one of our three children has been active in the business. Leaving that child the business would be "fair," but it would mean that our other two children would not be treated "equally." How do we resolve this dilemma?

For more information on this and other wealth management strategies, please contact Richard Krim, ChFC or Scott Krim, CPA.

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