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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—inheri- tance 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 some cases, the tax savings easily cover the cost of the attorney’s fees for creating the estate plan.

However, that hot button has cooled considerably in recent years, as the federal estate tax has been increas-ingly targeted to larger estates. For example, a single person who dies in 2022 has an exemption from the fed-eral estate tax of \$12.06 million. A married couple, assuming that they both die in 2022, may shelter \$24.12 million from federal estate tax, even without elaborate estate planning. An exemption that large would seem to let most families of moderate wealth off the hook. However, the exemp- tion is scheduled to fall roughly in half on January 1, 2026. Some in Congress want to accelerate that change.

Even so, families with less than about \$5 million in assets may be forgiven for feeling that they are no longer an estate tax target. However, there are other taxes to be considered at death. State inheritance and/or estate taxes typically kick in at lower wealth levels. There are income taxes to take into account, particularly income in respect of a decedent (primarily this affects retirement plan payouts after the death of the account holder).

But estate planning always has been about much more than tax planning. Estate planning always has been about financial protection for beneficiaries, with tax minimization just a means to that end. If you haven’t at-tended 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. Bank accounts, stocks, bonds, real estate, and business interests, of course. Don’t overlook insurance policies and retire- ment plan benefits. You’ll need to know how as well as what—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, 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 a di-voce.
- Weigh trust benefits. Trusts offer a wide range of financial benefits, 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 information.

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 exec-utor or personal representative to manage the settlement of your estate.
- Make a living will. This document addresses your expectations for medical care at the end of your life. You also may want to execute a power of attorney for health care to identify an individual to make medi-cal decisions on your behalf.
- Execute a durable power of attorney. Identify an individual who can make financial decisions on your be-half.
- 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, ac-count statements, property deeds, and insurance policies.
- Make arrangements for any safe-deposit box. Very often a safe-deposit box is closed upon death and can-not 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, or 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.

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