Planning for your family's future has never been more important.

TRUST & ESTATE PLANNING

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Introduction

Why is trust & estate planning important?

A thoughtful approach to your estate planning allows you to: alleviate additional stress on your surviving family members, decide how your assets will be distributed and reduce certain taxes. The estate tax, when applicable, is quite high, with a top rate of 40%, so there is a lot of incentive to mitigate that impact and understand the tax implications ivolved in planning your estate. This whitepaper is primarily focused on the tax and financial aspects of your estate, but an overall estate plan will also involve other legal aspects, including a Durable Power of Attorney, Health Care Power of Attorney and Living Will.

We will cover the following steps involved in estate planning including:

- Planning
- Strategy
- Maintenance

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Estate Planning Considerations

Estate planning allows for you to smoothly, and with intention, transfer your assets. Determining how and why and where you want to transfer assets is based on your asset inventory as well as where you are in your life and your current family structure. Asset transfer can take place during your lifetime via gifting and trusts, it does not occur only after death.

Think of your estate planning as needing a stable four-legged stool with those legs representing your CPA, your attorney, your investment advisor, and your insurance agent. It is with all of these professionals working together, that you can ensure successful estate planning and execution.

For 2015, the basic exclusion amount is $5,430,000, meaning that estates under this amount are not subject to estate tax. BUT, this does not mean that you should not do in-depth estate planning. Nor does it mean that an estate return doesn't need to be filed, particularly if there is a living spouse, because of portability. This exclusion amount is annually indexed for inflation, so it does go up each year.

As mentioned earlier, your asset inventory is everything you own, either alone or jointly. The nature of those assets will determine their tax treatment to you in your lifetime as well as to your heirs. If your largest assets are an IRA and your home, your tax planning will be different than if your largest investment is in your business. As tax advisors, we consider whether assets, when sold, are subject to ordinary or capital tax rates as well as what the basis of those assets will be in the hands of the people that inherit them.

Where you are in life will also determine your estate objectives. Some questions to ask yourself and consider are:

- Are you currently working or retired?
- Are you building a business or transitioning ownership and management of your business to your children?
- Do you have children?
- Do you have minor children?

Your family structure may also dictate planning considerations.

- Are you single?
- In your first marriage?
- Your second marriage?
- Are there step-children?

The answers to all of these questions will force you into thinking about where you want your assets to go and how you would like them managed.

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Your objectives will highlight what's important to you, and as you think about what we've discussed so far, some of your objectives will become self-evident. There are also special considerations such as:

- Would you like to leave money to charity?
- Do you have a special needs child to provide for over the remainder of their life?

Tip #1

Communication is key. One of the primary problems seen throughout an estate planning process is the lack of communication between the person who setup the estate plan, and their families. Death can be a difficult subject to talk about, but getting your documents in order and making sure a trusted family member or professional is aware of your wishes now will ensure that your family is taken care of in an event you pass away. It is also extremely important to let that person know where your online account information and user id and passwords are kept as well.

Strategy Should Serve Your Objectives

After you've developed your objectives, your strategy should serve those objectives. A few major strategy considerations include: portability, gifting and trusts.

PORTABILITY

Portability is relatively new, instituted in 2011. Portability is only available to married couples. If you recall from earlier, the current basic estate exclusion amount is $5,430,000. Upon the death of the first spouse, any unused exclusion amount is transferred to the surviving spouse which would then get added to their $5.4 million exclusion amount. The only way to elect portability is to file an estate tax return which is why we said earlier that even when your estate is below 5 million that it may be in your best interest to file. Knowing that both spouses have access to the full exclusion amount, in total - which is now over $10 million, determines how assets are titled and trusts are structured.

GIFTING

Gifting is another tool in your estate planning arsenal. Gifting moves assets from your estate. Gifting often triggers a reporting requirement, necessitating a tax return, but not necessarily any tax due. The $5.4 million basic exclusion amount we've discussed covers gifting as well. Gift tax is unique in that giftees are not taxed, but giftors are taxed if their lifetime gifting exceeds the basic exclusion amount. Keep in mind that the basic exclusion amount is one amount for both gifting and estate purposes, there is not a separate $5.4 million for each.

There is an annual cash gift threshold for 2015 of $14,000, meaning that you can gift up to $14,000 to as many people as you want, each year, without triggering the need for a gift tax return. If you are married, then you and your spouse can each gift $14,000. So if you are married, it is possible to gift $28,000 to each child and grandchild in your family with no tax implications on you or your spouse, or your family members. These individual gifts do not eat into the $5.4 million basic exclusion.

It's not uncommon to gift ownership of shares in a profitable business to a trust or to your children directly. This gets the gifted ownership percentage out of your estate and allows the business to grow without further consideration by you of the basic exclusion. Large gifts, such as business ownership, must have a business valuation that goes along with the gift return to support the value of the gift. Likewise, if other types of property are gifted, such as art work or real estate, a current appraisal must accompany the gift return. Business valuations and appraisals are a key component to your gifting strategy; it establishes basis for the recipient and provides IRS audit

TRUSTS

The trusts listed below are ones that we see quite a bit at our firm. It is possible for someone to have more than one trust, depending on the purpose of the trust. Each trust must have its own distinct trust document which is drafted by your attorney.

REVOCABLE TRUSTS

Revocable trusts are commonly used. With this type of trust, which is established during your lifetime, you retitle your assets so that the assets are in the trust's name, but using your SSN as the tax id number. You control the investment of those assets and any income generated by the assets is reported on your 1040 each year. You may have one revocable trust for you and a separate one for your spouse. Upon death, the trust document would dictate what happens to your assets. We commonly see assets passed to a spouse, children, charities and even pets! Believe it or not, providing for your pets' future care can be accomplished via your estate planning. This often provides a great amount of comfort for people to know that they have sufficiently provided for their furry friends.

IRREVOCABLE LIFE INSURANCE TRUSTS

Now, the Irrevocable Life Insurance Trusts are structured in such a way that the trust holds the life insurance policy and pays the premiums each year. The advantages of this type of trust are that the proceeds of the insurance policy are outside of your estate and that the beneficiaries have quick access to that cash. This is often a consideration for someone with college-age children. This type of trust does require an annual gift tax filing for the premiums paid, even if the premiums are less than $14K.

CHARITABLE REMAINDER UNI TRUST (CRUT)

A Charitable Remainder Uni Trust (CRUT) can be set up during your lifetime typically via a transfer of stock. You designate a charity, or charities, to receive the fair market value of the investments upon your death, while during your lifetime you receive a fixed self-designated percentage of the trust's fair market value each year. We typically see yearly returns in the 5-7% range. This percentage is set during the drafting of the trust document and does not ever change. When investments are transferred to a CRUT, you get them out of your estate. The benefit of this is that it frees up more of your basic exclusion amount ($5.4 million).

Tip #2

Determine where items of sentimental value will go. Emotions run high when determining who in the family should receive what. Having a discussion regarding certain items and making sure they are specifically identified in your estate plan, will alleviate any stress among your family members.

Increased communication allows for your estate to be settled quickly and cleanly, leaving more of your money for your intended purpose, rather than getting eaten up by legal and accounting fees.

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Maintenance

Now that the trust documents have been drafted by the attorney and signed by the client, what's next? There are some important follow-through items to consider. First off, you want to make sure that your assets are titled in accordance with your trust documents. Your attorney may give you the option of doing this yourself, or having them do it. While you may want to save on fees, this is a crucial step that you may want to consider having them do on your behalf. It can be more rigmarole and paperwork than you imagine.

Once everything is titled correctly, your estate plan is in place and ready to go. At this time, your tax advisor should receive a copy of your trust documents. They will keep them as part of your permanent file and have them to refer to as they handle your tax obligations going forward. It is important that you and your tax advisor review your estate planning every now and then. This is important if you or your beneficiaries experience any life changes such as marriage, divorce, births, deaths, etc.

Tax law changes may also necessitate a shift in strategy. That is why it's important that all of your professionals are working together, and that in particular, your tax advisor has your trust documents and are aware of your estate objectives. This allows them to advise you accordingly.

Moreover, as the value of your assets increase or decrease, this can affect your estate planning. For instance, by working with your financial advisor, your tax advisor will be aware of the impact of the stock market on your portfolio which could affect your relationship to the basic exclusion amount.

In Conclusion

A trust and estate plan allows you to direct how and to whom your property will be distributed after your death. Without a trust and estate plan, your property could be distributed according to your state's intestacy laws without regard to family needs or your desires. It alleviates undue added stress on your family, helps you reduce or avoid certain taxes and allows you to decide how your assets will be distributed.

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ABOUT PDR CPAs

PDR CPAs is a local Tampa Bay firm with offices in Clearwater and Tampa. Since 1974, PDR Certified Public Accountants has been a prominent leader in providing tax, assurance, and business consulting to individuals and businesses. Our experienced staff, proven track record, and high level of financial knowledge to keep businesses on track is the distinguished service we provide to all of our clients.

It is our mission to *provide innovative business solutions to enable our clients to build on strengths, expand opportunities and improve outcomes.*

Our BDO Alliance USA membership provides us with access to greater resources to continue the growth of our regional, national and international CPA firm service offerings.

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