7. ESTATE PLANNING FOR THE CHRISTIAN

Introduction

Estate planning focuses on two major issues. Personal matters as well as financial matters must be considered. Planning for the transfer of personal responsibilities includes healthcare planning, care for dependants, property management and personal care. Financial matters involve planning for paying liabilities and transferring assets to the appropriate people in an effective manner.

Estate planning is a process, the end goal of which is peace of mind. The plan may deal with making sure personal wealth, to the greatest extent possible, is made available at the individual's death for the purposes he or she desires. Peace of mind also results from planning for surrogate decision makers in case of in capacity, guardians for dependent children and prudent asset management.

Since a person's estate consists of everything he or she owns, estate planning can be broadened to include the creation, accumulation, and preservation of the estate as well as its final distribution. An estate plan provides for the wise utilization of a person's property during life and for the orderly and cost effective disposition of the estate, in accordance with the owner's wishes and family needs, at the time of death.

For the Christian, the estate planning process goes beyond the preparation of the will and making certain that the estate is not unnecessarily diminished by taxes and costs. God is the owner of all things and people are stewards of His property. He grants people opportunity to manage that which He has placed in their care. As God's steward, the Christian is accountable to the Lord for His property. While living, the Godly steward manages and uses God's property wisely in harmony with the Heavenly owner's desires and plans for the distribution of that property upon death.

To the Christian estate planning is a spiritual experience. God provides abilities, influence and opportunities to gain wealth. The Christian uses those "God-owned" assets to care for his/her needs during life, to benefit others and to advance God's Kingdom. God places assets under the Christian's management and dominion, but retains an expectation of benefit in return. Such an experience is that of a sacred trust. It is a process to be approached prayerfully and with much counsel from those who not only have the necessary technical expertise, but also possess "…experience in the truth and knowledge of the divine will." *Counsels on Stewardship*, p. 330.

Financial Planning: Utilizing Assets Wisely

Financial planning encompasses a person's earning, investing, saving, giving and spending resources so as to meet financial goals and provide for personal lifetime needs, the needs of others and needs of the Lord's work. A person's financial plan guides these endeavors. It is a process of developing comprehensive solutions to personal, business, and financial challenges and concerns.

Planned Giving & Trust Services provides spiritual guidance and counsel that informs and molds the financial planning process without engaging in dispensing technical advice. It is analogous to encouraging good healthful living practices without diagnosing and treating disease. The ministry of Planned Giving & Trust Services helps people focus on being good stewards and encouraging their obtaining competent professional advice throughout the estate development and disposition process.

Lifetime Needs and Objectives

Some of the lifetime needs and objectives which require financial planning are the following:

Children's Education

As early as possible, parents should develop a plan to finance their children's education. Through careful use of savings and investments, funds may be set aside for this purpose.

Medical Care

The rising costs of medical care and hospitalization impacts a person's financial planning. Without adequate medical and hospitalization insurance and an emergency fund, a catastrophic illness could easily exhaust a person's estate. One of the leading causes of bankruptcy is insurmountable medically related debt.

Disability Income

During a person's earning years, the loss of income because of disability could result in the "distress liquidation" of all assets. This may be avoided by obtaining adequate disability insurance to cover living expenses in the event of disability.

Retirement Income

Without proper planning for continued income flow during the retirement years, a person may have to face some drastic lifestyle changes. Through the use of pension plans, individual retirement accounts (IRAs), annuities, deferred compensation plans, Social Security benefits, charitable remainder trusts, charitable gift annuities, and other investments; one can plan for adequate income during the retirement years.

Risk Management

A person is always exposed to certain risks and liabilities which could result in the diminution of the estate. In order to protect and preserve the estate, a person must either avoid these risks or control them through careful management and the use of insurance. It is prudent to obtain adequate insurance coverage on items that would need to be replaced in the event of loss or destruction, such as the home and other real property, valuable personal property, and automobiles. Insurance is recommended for activities and property which present potential liability to third parties.

Investment Planning

While Trust Services personnel are not to give investment advice, it is helpful to understand various types of investments and their involvement in a donor's estate plan.
Investment planning is the process by which an investment program is devised to meet a person's financial objectives and lifetime needs. Most of a person's financial objectives require the accumulation of capital within a specific timeframe or the establishment of a flow of income for a certain period. Investments are made within the context of a person's resources, risk tolerance, and the economic environment. Factors to be considered include:

Liquidity and Marketability

A person's financial objectives may include short-term goals, such as purchasing an automobile or home; or a long-term goal, such as establishing a retirement plan. Having cash or capital available at appropriate times necessitates consideration of liquidity and marketability when selecting investment vehicles.

Liquidity is the ability to readily convert an investment into cash without losing principal. Funds that might be required for immediate use should be invested in highly liquid investments.

Marketability is the degree to which there is an active market in which an investment may be traded. Some investment vehicles, while promising an excellent return, do not have a ready market where they can be easily traded or sold. Real estate sales, for example, may require an extended period of time to complete. Some limited partnership shares or family corporation stock may be difficult to sell to the public.

The failure to properly evaluate the liquidity and marketability of investments could result in funds being unavailable when needed or the principal being diminished when the asset is sold or traded.

Investment Risks

Risk involves the possibility that the expected return will not be realized, loss of principal may occur or purchasing power could decline. Risk cannot be totally avoided. Many global factors beyond the individual investors control influence economic conditions, market performance, interest rates, and purchasing power.

Real investment risks include business risk, country risk, market risk, and inflation. The soundness of a business determines its quality as an investment. Companies can be in decline while its stock price remains strong. The strength of foreign countries affects investments even if a portfolio has no foreign investments because many US based companies derive a significant portion of their earnings from foreign sources. Security prices go up and down distinct from business soundness. Market risk is paying too much for a stock and then having the price go down due to cyclical market influences. Over time purchasing power tends to erode due to inflation presenting real risk to investment return. Proper investment diversification is considered the most important risk management technique.

Economic Environment

The economic environment must also be considered when making investment decisions. When a certain economic trend is anticipated, an appropriate investment strategy should be adopted. For instance, during periods of increasing interest rates, it is recommended that long-term, fixed-income investments be avoided and liquidity be sought. During inflationary times, assets for which the value will increase with the rate of inflation, such as real estate, may be acquired. In times of recession, assets such as common stock in firms that will benefit from expansionary monetary and fiscal policies may be considered for investment purposes. Long-term investments in firms that are able to sustain growth are preferred during periods of sustained economic growth.

A successful investment strategy must be based on accurate anticipation of economic trends. Thus, it is very important that the guidance of experts be obtained when planning investments.

Estate Planning: Planning for the Eventual Distribution of the Estate

One of the main functions of an estate plan is transferring estate property in harmony with one's personal goals and family needs. Transfer of assets as a part of an estate plan may occur during life and will occur at death. The trust services representative has unique opportunities to assist families with their stewardship responsibilities for family and the Lord's work. There are numerous important issues for a person/couple to consider when engaging in the process of planning for management and distribution of property entrusted to them.

Basic to the whole endeavor, however, is overcoming procrastination and doing the hard work of planning in a timely manner. Knowledge about the planning process, the issues that need to be considered, and an organized way of approaching the process is a great stress reducer. Since all assets will eventually transfer to ownership either in life or at death planning needs to be done while the person's intent governs. Young families with minor age children need to express their intent regarding guardianship for their children. Planned Giving & Trust Services assists members in overcoming planning inertia by providing opportunities to initiate the process through responding to advertising, attending seminars, listening to Sabbath presentations and reading pertinent articles on the importance of planning at various stages of life. The Trust Services representative can facilitate this process by helping organize estate data, providing information, and encouraging family discussion of relevant issues.

Estate and financial planning is an ongoing, dynamic process~~;~~ because personal circumstances and the law change~~s~~. These changes necessitate periodic review and, perhaps, revision in subsequent years.

Asset Ownership

Asset ownership is an important matter to consider when planning the estate. The attorney preparing estate documents needs to know if an asset is titled in name of one spouse or jointly by both spouses, jointly with another individual or by a trustee. It is important to understand how ownership impacts the estate taxation on the death of the first spouse and then at the death of the second spouse so adequate plans can be made. Beneficiary designations of life insurance and retirement plan assets impact the estate distribution plan and need to express current intent.

Estate Value

The value of an estate determines if there are estate tax planning issues to consider. Reasonable estimates of values may suffice in the initial planning stages, but an appraisal may be necessary to value property interests especially if there is substantial value involved. Insurance death benefits are an important part of the estate valuation as well since they are included in the gross estate for estate tax purposes and they may be the primary funding for children's care.

The other side of estate value is estate indebtedness. This information needs to be gathered as well. An individual bequest or a whole distribution plan can easily be frustrated by a decedent's debts. The Trust Services representative can assist in organizing asset and liability information and creation of a net worth statement.

Beneficiary Decisions

As a person plans their estate the "who shall inherit" question is a major consideration. Family needs are primary. Gifts to the spouse will qualify for the unlimited marital deduction, but will only delay taxation until the second spouse dies. A decision will need to be made about spousal benefit. Should the surviving spouse receive all of the estate or are there children from previous relationships to be remembered? There may be other persons that may have need or a church ministry that the person wants to support. In addition to the "who" question, the "what amount" question is crucial. Giving too much can be injurious. Warren Buffet, a billionaire investor, when queried about how much he was going to give his children, is reputed to have responded, "I will give them enough to do something, but not enough to do nothing." The wise parent considers the needs, capability, and character of each child when planning the inheritance. One family member may have special needs requiring significant assistance, whereas another may have ample assets or income producing ability and not need a major portion of the estate. It may be wise to bypass the next generation (children) in favor of gifts to or for the benefit of grandchildren. In the event a child predeceases a decision is required about what to do with his or her bequest. In the case of blended families the "who" question can present significant challenges.

Timing of Gift or Bequest

The timing of gifts and bequests is important to consider. For larger estates weighing the benefits of lifetime gifting to diminish the estate tax liability is prudent planning. Gifting during life can provide inexperienced beneficiaries the opportunity to develop skills in handling money while the benefactor is alive and available for counsel. Some assets may be placed in irrevocable trusts during life to reduce estate taxation or for Medicaid planning. Lifetime gifts are generally less expensive from an estate tax perspective than delaying the gift until death. It is also an important part of Christian stewardship to not delay giving to support God's work until after death rather than being a living steward. Giving at death should not be a substitute for supporting the Lord's work during life. Gifts for a particular beneficiary can be given all during life, some in life with the balance at death, some at death and the remainder later on or all at death. Some may want their children to receive the heritance at 18 or 21 years of age, while others prefer to delay receipt until 30 or 40. Some choose installment payments, such as one half at age 25 and the balance at 30. The benefactor's goals and the beneficiary's needs govern the timing issue.

Distribution Methods

The method used to distribute assets to beneficiaries is another major consideration. Outright ownership may be given or a partial interest in a trust. Specific assets, such as the vacation home, car, certain number of shares of a stock can be bequeathed to a person or charity. The distribution may be expressed as a percentage of total estate after debts, expenses and specific bequests. Some choose to bequeath a sum or percentage of the estate to a charitable split interest gift plan which provides income to a family member or friend with the remainder to charity.

Advance Directives

A person needs to plan for incapacity, temporary or permanent, while mentally competent. Creation of a durable power of attorney to handle personal and business affairs, an advance health care directive, and/or a living will are essential. Creation of a living trust and appointment of a successor trustee to manage trust assets may provide continuity of financial management and avoidance of a court appointed conservator. The exact document(s) depends on the respective state laws, the individual's choices, and legal counsel.

Overview of the Transfer Tax System

The federal government and the state where an individual resides or owns real estate can impose taxes on the transfer of property during life or death. The three federal taxes are: (1) the gift tax on gratuitous transfers during life, (2) the estate tax on transfers at death, and (3) the generation-skipping transfer tax (GSTT) for transfers during life or at death to individuals two or more generations below the transferor. In addition, some states impose various forms of transfer taxes at death.

Gift Tax

The gift tax is a transfer tax levied on an individual who transfers money or property for less than full consideration to another individual during life. Many types of lifetime transfers may be considered gifts including: the transfer of cash or securities, the creation of a trust for another person, the forgiveness of a debt, an interest free or below market rate of interest loan, the assignment of insurance benefits, or the transfer of an automobile, boat, painting or other personal property.

In order to be considered a gift the transfer must be intended as a gift (donative purpose) rather than for business purposes. Involuntary transfers, such as transfers under a divorce decree, or an arms length business proposition that provides a windfall for the purchaser would fall outside the scope of the gift tax.

The amount subject to the gift tax is the difference between the fair market value (FMV) of the property transferred and the value of any consideration received in return. Note the following two examples.

> Example: Mother transfers $100,000 in cash to Daughter and receives nothing in return. Mother has made a $100,000 gift to Daughter.
>
> Example: Mother gives Daughter $100,000 in cash to Daughter in exchange for Daughter's house, which has a FMV of $75,000. Mother has made a gift of $25,000 to Daughter.

The gift tax applies only if there has been a completed, irrevocable transfer of property from one person to another. If the transfer can be revoked by the donor, then no completed gift has occurred. If a revocable transfer is made then a taxable gift can occur whenever the transfer becomes irrevocable. For example, if an individual creates a revocable trust for the benefit of a child no taxable gift has occurred. If the parent later amends the trust relinquishing the power to revoke it, a taxable gift is then made even though there is no actual transfer to the child. The creation of a joint bank account is not a taxable gift merely because the non-contributing account holder possesses the right to withdraw at any time. However, at the time the non-contributing account owner withdraws funds from the account the transfer is complete and a taxable gift occurs. Similar results occur with respect to US savings bonds and joint brokerage accounts.

The gift tax applies to the transfer of property or the use of property. The gratuitous performance of services for another is not a taxable gift.

Gift Tax Deductions and Exclusions

There are a number of deductions and exclusions that may protect a gratuitous transfer from gift tax. An individual can give up to $13,000 (2011, indexed for inflation) of property each year free of gift tax through the annual gift tax exclusion. A married couple can each give $13,000 separately to a donee, or one of the couple if the spouse agrees to gift splitting can give $26,000 to that donee. Only one annual exclusion gift can be made to any one donee, but there is no limit on the number of donees. The exclusion applies to gifts of a present interest (present use, possession, and enjoyment) not future interest (the use, possession and enjoyment vests in donee at a future time).

An individual may pay an unlimited amount for tuition or medical expenses in behalf of a donee without incurring gift tax. These payments must be made directly to the educational or medical provider. The medical and educational exclusion is in addition to the annual exclusion amount and may be made to any person without regard to relationship between the donor and the donee.

A person can transfer unlimited amounts of property to his or her spouse free of gift tax because of the unlimited marital deduction. These transfers may be directly to the spouse or into certain types of qualifying trusts for the exclusive benefit of the spouse during the spouse's life. This exclusion only applies if the spouse is a United States citizen. Special rules apply for non-US citizen spouses.

Transfers to qualified charities during life or at death are entirely free of transfer tax. There is no limit to the gift tax charitable deduction.

For the years 2011 and 2012 a lifetime gift tax "exemption" allows $5,000,000 of assets to pass free of gift taxes. In 2012, the exemption will be adjusted for inflation. Gifts in excess of the annual exclusion can therefore pass tax-free if there is sufficient lifetime gift tax credit available.

Estate Tax

The estate tax is a transfer tax levied on the right to transfer assets at death to beneficiaries of the decedent's choosing or, lacking testamentary direction, beneficiaries of the state's choosing. It is measured by the value of the taxable estate. The difference between the gross estate and any allowable deductions is the taxable estate.

Everything *actually owned* by a decedent is included in the decedent's gross estate for estate tax purposes. In addition, property interests *deemed* to have been owned are included in the gross estate to the extent of the decedent's interest in the property (e.g. life estate interest, present value of an annuity to a non-spouse). All property thus owned by a US citizen or resident regardless of its location is a part of the gross estate and is subject to the estate tax.

The value of the gross estate is established as of the date of death or a date 6 months after the decedent's death (alternate valuation date). The alternate valuation date may be used if it will decrease the value of the decedent's gross estate and the amount of estate tax due. Property is valued by appraisal at fair market value on the date of death or alternate valuation date if elected.

Deductions available to the estate include funeral expenses, estate administrative costs, debts or obligations of the estate, personal representative fees, attorney's fees, and casualty losses during the administrative period. The gross estate is further reduced by any bequest to the decedent's spouse eligible for the unlimited marital deduction and any bequest to a qualified charity. Once these deductions are taken the result is termed the taxable estate.

The taxable amount (the excess over any applicable exclusion for gift tax purposes) of gifts made after 1976 are added to the taxable estate. The resultant tentative tax base is used to compute the tentative tax. Gift taxes payable on post 1976 gifts are then subtracted from the tentative tax. The result is considered the estate tax payable before credits are applied.

Each person is entitled to an applicable credit amount as a credit against estate tax owed. This credit is a dollar for dollar reduction of tax. It excludes or shields a certain value of estate assets from tax (see table below). In addition three other credits serve to reduce the estate tax owed: credit for foreign death taxes owed, credit for gift tax paid on pre-1977 gifts, and credit for taxes paid on prior transfers.

Estate Tax Credit Schedule		
Year	Applicable Credit Amount	Applicable Exclusion Amount
2004 and 2005	$555,800	$1,500,000
2006, 2007, and 2008	780,800	2,000,000
2009	1,455,800	3,500,000
2010	Repealed*	Repealed*
2011 and 2012	1,730,800	5,000,000
2013	345,800	1,000,000
Under EGTRRA 2001, beginning in 2004, the GSTT exemption is scheduled to equal the estate tax applicable exclusion amount		

*The heirs of those dying in 2010 may choose between applying the 2011 and 2012 rules or electing to be covered under the 2010 rules of no estate tax, but only a limited step-up in the cost basis of inherited assets.

> “The Tax Relief Act of 2010 provides for "portability" of the unused estate tax exclusion amount to the surviving spouses of people dying in 2011 and 2012…. Portability also carries over the gift tax exemption. However, portability does not apply to the generation skipping tax exemption.
>
> Portability means that a surviving spouse can elect to harvest the unused portion of the estate tax exclusion amount of the deceased spouse, thereby providing the surviving spouse with a potentially much larger tax exclusion amount upon his or her subsequent death. To preserve the first deceased spouse's unused exclusion amount…, the personal representative of the deceased spouse must file an estate tax return and make an appropriate election on the return. The estate tax return must be filed to achieve portability even if the filing of such a return is not otherwise required.” http://marshallelder.blogspot.com/2011/06/estate-and-gift-tax-portability-law.html

The personal representative of the estate has the duty to file the estate tax return (Form 706) if the value of the gross estate plus the value of adjusted taxable gifts on the date of gift exceeds the statutory filing requirement. The gross estate and the adjusted taxable gifts must exceed the applicable exclusion amount ($5,000,000 in 2011 and 2012) for filing to be required. If filing is required, the return is due and the tax is payable no later than 9 months after the decedent’s death unless and extension is granted.

Estate Tax Rate (Generation Skipping Transfer Tax follows same rate schedule)	
Year	Maximum Rate
2006	46%
2007-2009	45%
2110	Repealed
2011and 2012	35%
2013	55%

Generation-Skipping Transfer Tax

The third federal transfer tax is the generation-skipping transfer tax (GSTT). It was designed to fill a gap in the estate and gift tax systems which previously allowed certain transfers to avoid taxation. Before the enactment of the tax in 1986, an individual could avoid transfer taxes on property over many generations by placing the property in a long-term trust for the benefit of succeeding generations or by skipping over one or more generations entirely (for example, by leaving property entirely to grandchildren and bypassing children). If the trust was properly structured, the trust property would escape taxation as it passed generation to generation. Only when the trust terminated would the property be subject to taxation.

Under current law, if an individual makes a transfer of property in a manner which will escape the gift tax or estate tax at a lower generation level, the GSTT may be imposed at a flat rate equal to the highest transfer tax rate (35% in 2011 and 2012). The GSTT also applies to non-lineal descendants who are a specified number of years younger than the donor. There are certain exemptions to the tax, the most important of which is the $5,000,000 GSTT exemption per individual. A married couple can elect to split a transfer and exempt up to $10,000,000 from the GSTT.

State Transfer Taxes

The state rules for taxation of transfers during life or at death vary from state to state. Many states have estate taxes. Some states impose an "inheritance tax" on the right to receive property from the estate of a decedent. Maryland and New Jersey have both. Estate taxes are typically assessed against the value of real estate located in the state. Generally, exposure to the state estate tax is based on the gross estate computed for federal estate tax purposes. Rates and exemption vary widely from state to state; from a low of 3% in Kansas to a high of 19% in Washington. Rates may vary depending on nearness of relationship to the decedent e.g. a spouse may have a lower rate or total exemption whereas a cousin may have a higher rate). A decedent's domicile may also play into state estate liability. A taxpayer could be domiciled in more than one state and owe taxes to each. The extensive variance in state death taxes requires competent legal and tax counsel involvement in the estate planning process.

Prior to 2006 a partial credit for state death taxes paid was allowed on the federal estate tax form; however this credit was eliminated beginning in 2006. Under current law death taxes paid to a state are allowed as a deduction from the gross estate for estate tax purposes.

Lifetime Planning: Taking Strategic Steps to Reduce Transfer Taxes

Reducing one's estate through lifetime gifts is one of the most effective methods of decreasing transfer taxes. Significant amounts of property can be given away without incurring gift tax, and, for wealthy individuals, making larger gifts is almost always advantageous from a tax standpoint.

Take Advantage of Gift Tax Exclusions

Annual exclusion gifts ($13,000 per donee or $26,000 if married couple agree to gift splitting) are effective in moving property out of a taxable estate over time. By giving away property that is likely to grow in value all of the future appreciation is moved out of the estate as well.

Taking advantage of the medical care and educational expense gift tax exclusion allows individuals with taxable estates to diminish their estates at no tax cost and to benefit others with meaningful assistance enabling them to conserve their assets.

In addition to the annual exclusion gifts, wealthy persons might consider making one or more large gifts during life even if gift tax is incurred. Due to their nature, lifetime gifts cost less to make from a gift and estate tax perspective than transfers at death.

Redistributing Assets Between Spouses

One spouse frequently has a smaller estate than the other. A married couple (both US citizens), may "equalize the value of the estates" by titling or gifting assets so that the value owned by each person is approximately the same. This increases the likelihood that each spouse will be able to use his or her estate tax applicable exclusion amount.

Non-charitable Split Interest Gifts

A person or couple with a taxable estate can transfer assets to a trust which provides income to the grantor for a specified period of years, usually 10 – 15 years. At the end of the term of years, the trust assets belong to the individuals named in the trust document; usually children, nieces, or nephews. The gift tax due on the transfer is substantially less than what the estate tax would be if the assets were bequeathed to the next generation at the grantor's death.

One version of this plan, the grantor retained annuity trust (GRAT), pays a fixed income expressed as a percentage of the original value of the trust assets. The other version, the grantor retained unitrust (GRUT), pays a variable income, expressed as a percentage of the trust assets revalued each year.

The date of death value of the assets placed into the trust is not included in the grantor's estate as long as the grantor lives longer than the trust term. If the grantor dies during the trust term, the trust assets are included in his or her estate at date of death value.

Qualified Personal Residence Trust (QPRT)

A Qualified Personal Residence Trust enables a grantor to deed the personal residence to the trust keeping the right to the property for a specified number of years. At the end of the trust term, the residence title passes to the individuals named in the trust, usually next generation family members. The grantor can continue staying in the residence by paying the owners the market value rent. The gift tax due on the transfer is substantially less than what the estate tax would be if the residence was bequeathed at the grantor's death. Paying rent for one's "own home" can be distasteful, however the payment of rent also moves assets out of an otherwise taxable estate. The prospect of saving substantial estate tax at the federal and state levels makes an otherwise bitter pill sweet.

The date of death value of the residence placed into the trust is not included in the grantor's estate as long as the grantor lives longer than the trust term. If the grantor dies during the trust term, the trust assets are included in his or her estate at date of death value. This result is no worse than if the trust had not existed.

Bypass Trusts

Bypass trusts are sometimes called credit shelter trusts, “A-B Trusts,” or marital and family trusts. The surviving spouse is given rights to income and limited rights to the corpus. This is a typical strategy for married couples. At the first spouse’s death, the exemption amount of separately titled assets is given to a bypass trust for the benefit of the surviving spouse. These assets are sheltered from estate tax by using the decedent’s estate tax exemption to the extent available. The amount over the applicable exemption amount is given to the surviving spouse in a manner that qualifies for the unlimited marital deduction. Bypass trusts can be created during life (*inter vivos*) or testamentary through the Will.

At the surviving spouse’s death, assets in the bypass trust escape the estate tax since they are not owned by the spouse. In addition, the exemption amount for the second spouse to die can be applied against the remaining estate value as well as any unused exemption from the first spouse to die. This plan assures that the first $10,000,000 (in 2011 and 2012) owned by a married couple will not be taxed for estate tax purposes.

Irrevocable Life Insurance Plans

Many insurance professionals encourage wealthy individuals to purchase additional life insurance coverage with policy ownership held by an irrevocable life insurance trust. If planned and administered properly this pool of value is not taxed for estate tax purposes and is typically for the benefit of the surviving spouse and /or children. Some irrevocable life insurance trusts are created to replace the value of assets gifted to charity.

Charitable Giving

Making lifetime charitable gifts, including outright gifts and gifts which provide a life income, such as charitable gift annuities, pooled income funds, and charitable remainder trusts is effective in moving assets out of a taxable estate. If a life income gift plan is created only for the donor, the amount contributed to the trust will never be taxed for estate tax purposes. Plus, a partial income tax charitable deduction can be claimed and, if appreciated property is contributed, no capital gains tax is due on the appreciation at the time of transfer into the gift plan. Significant income tax savings can be realized through such plans.

During lifetime the personal residence (a vacation property also qualifies) or farm (with or without buildings) can be deeded to a charitable organization reserving a life estate for the grantor. If the grantor is the only life estate beneficiary no estate tax would be payable on the value of the property. This charitable contribution of a remainder interest produces a partial income tax charitable deduction and moves the future appreciation out of the estate.

Charitable bequests are 100% deductible from the taxable estate for estate tax purposes and consequently avoid estate taxation. Amounts transferring to charity generally would not be taxable at the state level either.

A donor can create a testamentary charitable gift annuity, pooled income fund agreement, or charitable remainder trust to provide income to survivors. The present value of the eventual charitable remainder escapes estate taxation.

Designating a charitable organization to receive a portion of a qualified pension plan, deferred compensation plan, or IRA at the death reduces the taxable estate. It also reduces the deferred income tax the surviving spouse's estate or heirs would have owed.

As an alternative to an outright gift of all or a portion of the retirement plan, it is possible to create a testamentary charitable remainder trust, paying a specified income to an income beneficiary for a period of years (not exceeding 20). At the end of the trust term, the assets are distributed to the charitable remainder beneficiary. No deferred income tax is due on the value placed in the charitable remainder trust (because it is tax exempt) and part of the value also escapes estate taxation. A testamentary charitable gift annuity or pooled life income fund may also be used to provide similar income tax and estate tax benefits.

The beneficiary designation to accomplish these post death transfers is revocable and easily changed during the employee's lifetime.

In Closing…

Estate planning is essential to preserve an estate that in every case takes a lifetime to build. When Elvis Presley died in 1977 his gross estate was valued at just over $10,000,000. When probate closed 12 years later it had shrunk 73% to a mere $2,700,000. Settlement costs included debts, administrative expenses, attorney's fees, executor's fees, state death tax and federal estate tax. On the other hand, the $270 million dollar estate of Andy Warhol shrank just 2.3% due to extensive and effective estate planning.