ESTATE PLANNING GUIDEBOOK

The *Financial Principles Guidebook* is a comprehensive collection of our planners' insights to help you along your pursuit of financial independence.

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When was the last time that you reviewed your estate planning documents and beneficiary designations? A general rule of thumb is to review them every two to three years to determine if adjustments need to be made. You should also review them whenever a major life event occurs, such as a death, marriage, divorce in the family, or your financial situation has changed.

While there has not been a formal proposal put forth yet, there has a been a great deal of discussion around changes to the current tax laws impacting estates. If you have not revisited your estate planning in a few years, now may be a good time to review your estate plan and any tax planning opportunities that may be available to you under the current tax laws.

We hope that you find this information valuable. Should you have any questions, please do not hesitate to contact our office. If you have a friend, family member, colleague, or client who may benefit from this Guidebook, please do not hesitate to share it with them.

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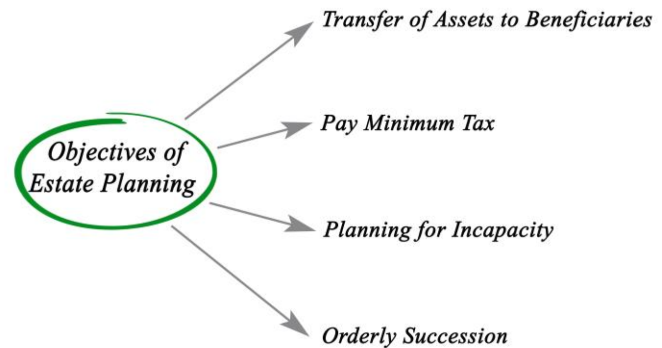
WHEN WAS THE LAST TIME YOU REVIEWED YOUR ESTATE PLAN?

An estate plan generally consists of three core documents: a Last Will and Testament, a Power of Attorney, and a Living Will (also referred to as a Health Care Proxy or Advance Directive). After death, an estate plan will outline who receives your assets and can help to reduce taxes and legal fees. During your life, your estate plan can control your assets, guide your medical treatment, and appoint someone to make decisions for you. While planning your estate and outlining your wishes can be stressful, everyone should have an estate plan.



A **Last Will and Testament** is a document that controls how your estate is distributed after your death. Every individual should have a Will, regardless of their net worth. It outlines the distribution of assets at death, the person to oversee the distribution of their estate, and designates a guardian(s) for minor children (if necessary). However, it is imperative to carefully review the titling of assets and your beneficiary designations, as they may dictate how your assets will pass after your death.

A **Power of Attorney** is a document that appoints another person(s) to act on your behalf. A Power of Attorney can be durable, which means that your agent can act on your behalf at any time, or "springing," which means that your agent can only act on your behalf if you are incapacitated.

A **Living Will** is a document that designates a person(s) to act on your behalf with respect to medical decisions if you are incapacitated. The document will appoint someone to make decisions for you and even make end of life decisions such as pain management, resuscitation and feeding, and even organ donation.

Some estates may include a **Trust.** There are several different types of trusts but in general terms a Trust is an entity that holds property for the benefit of the grantor (creator) or their heirs.

WHEN WAS THE LAST TIME YOU REVIEWED YOUR BENEFICIARIES?

While many people believe that their Last Will and Testament will dictate how their assets will be divided amongst their beneficiaries, there are many assets that will not pass by the terms of your Will. Therefore, it is important to review and understand your beneficiary designations, and how you own property. Here is a list of just a few assets that are not subject to the terms of your Will: certain jointly owned property, any asset that is titled "transfer on death," retirement accounts, annuities and life insurance, trust assets, and any assets that may be subject to a contract (like a business). In the case of a retirement account and life insurance, your beneficiary designation will always supersede your Will. You should review your beneficiary designations every year to ensure that they are up to date and reflect your current wishes.

When reviewing your beneficiary designations, you should also pay close attention to whether the beneficiaries are named "per-stirpes" or "per-capita." A per-stirpes designation assumes that in the event your primary beneficiary predeceases you, the share of the assets they would have inherited goes to their heirs. A per-capita designation assumes that in the event your primary beneficiary predeceases you, the share of the assets they would have inherited goes to the remaining primary beneficiaries named. For example, if you name your two children as the

primary beneficiaries of your life insurance policy with a per-stirpes and one of them should predecease you, their share of the life insurance proceeds would go to their surviving heirs (presumably your grandchildren). If the designation were per-capita, their share would go to your other child.

COMMON ESTATE PLANNING MISSTEPS

Not having a Will- Perhaps the greatest mistake you can make is passing away without a valid Will. If you do not have a Will, you will have died "intestate" which means the State will dictate how your assets will pass to your heirs. This can lead to infighting amongst the family and even result in family members who you may not wish to leave any inheritance to receiving proceeds of your estate.

Not contemplating the passing of an heir- When naming beneficiaries, you should always name a contingent beneficiary in case they predecease you. Without careful beneficiary planning you could inadvertently disinherit grandchildren or other family members and create a host of family tension after your passing.

Naming minor beneficiaries without considering guardianship or trusts- When naming minors as beneficiaries you should ensure that guardianship has been addressed, or a trust has been created (and named as beneficiary) for their benefit.

Joint Ownership of Assets- When reviewing your ownership of assets (such as your bank accounts, brokerage accounts, and even home) you should also pay close attention to whether your jointly owned property is owned joint tenants in common, or joint tenants with rights of survivorship. If you are to pass away owning property as tenants in common, the surviving joint owner will maintain ownership of half the asset while your half would be subject to probate (the terms of your Will). If you own assets with rights of survivorship, the entire asset will pass directly to the surviving joint owner.

Transferring real property to heirs before you pass- This was more popular years ago, but often elderly parents will transfer their homes, or second homes, to children before their passing. This strategy is ill-advised for several reasons. First and foremost, you will lose ownership and control of the asset. Second, with your child(ren), or other heir(s), now owning the property, it will be subject to any creditors or judgments against them. Third, your heirs will lose the "step up" in basis at your passing. This is particularly important because when they in turn sell the property, they will realize capital gains and must pay taxes on those gains. For example, let's assume that you purchased your vacation home (now worth $1,000,000) for $250,000 twenty years ago. If you transfer ownership of the home to your child, they will assume your basis of $250,000 and if they sell the home, they will pay capital gains taxes on the $750,000 gain. However, if you were to leave the property to them at your death, they would receive a "step up" in basis to $1,000,000 and if they in turn sold the home no capital gains tax would be due. This mistake is even more costly if you were to sell the property to your child for $1 rather than gifting the property.

Leaving real property to more than one owner- Perhaps you have a summer home that has been enjoyed for years by your entire family. While leaving property to your heirs is a nice sentiment, it often leads to hard feelings and/or complications as all the beneficiaries need to agree on whether to keep or sell the property, how to maintain it, a schedule for using it, sharing in the maintenance costs, etc. When considering leaving real property to your heirs you should meet with all your heirs and discuss the matter to have a clear understanding of everyone's wishes

and intentions. It may be a good idea to consider establishing a holding company to receive the property so that all decisions relative to the property are delegated and all the heirs would have agreed to their intentions with respect to the property in advance.

What can I do today to help my heirs?

Create a plan and share it- Creating your estate plan is the crucial first step. However, you should communicate with your agent, executors, and even your heirs to review your plan. This will help ensure that your agents and executors understand your wishes and intentions. If you are having trouble having the conversation regarding your wishes with your heirs, talk to your advisor. Our office has experience facilitating these family meetings.

Consider making prearrangements- After you pass, your family will be grieving their loss. Planning a funeral or memorial service is a difficult task. You may want to consider outlining your wishes for your heirs, or even making prearrangements.

How can I increase the impact of my legacy for my heirs?

The Federal Government assesses taxes on the transfer of wealth. In death it is called the Estate Tax and in life it is called the Gift Tax. Currently, the estate and gift tax exemption is $11.7 million per individual, which is indexed for inflation. This means that each person can gift in life, or leave at passing, $11.7 million ($23.4 million for a couple) before a federal tax is assessed. In addition to the Federal Government assessing a tax on larger estates, each state has the right to assess an inheritance and/or estate tax.

While no formal proposals have been brought forth, it is important to note that there has been a great deal of discussion regarding this Federal exemption amount being reduced in the near future. For those who have amassed substantial wealth, it may make sense to consider revisiting your estate plan to take advantage of the current limits.

Gift assets today

Each year, you can gift up to $15,000 ($30,000 per couple) to any individual without reducing your estate and gift tax exemption. If your estate exceeds the Federal Exemption, or your heirs will incur an inheritance or estate tax at the state level, you can consider making annual gifts free from any tax.

Consider a 529 or Roth IRA for Grandchildren

If you want to increase the impact of your gift, consider funding a 529 Plan or Roth IRA for your children or grandchildren.

Assets in a 529 Plan grow on a tax-deferred basis and if withdrawn for qualified expenses (college or secondary school education tuition, transportation, books and supplies, or room and board) the withdrawals are tax-free. When gifting assets to a 529 Plan you can also accelerate up to five years of gifting without reducing your estate and gift tax exemption! This means that you can gift up to $75,000 per child or grandchild ($150,000 if you are married) to a 529 Plan which can go on to grow potentially tax-free to help fund their future education costs without reducing your estate and gift tax exemption. *Note: you should confirm that the state 529 Plan that you elect allows for changing of ownership on the plan as if your grandchild may qualify for financial aid you may want to change the ownership of the Plan to their parent later for qualification purposes.*

If your grandchildren have earned income from a part-time job, you should consider gifting assets to a Roth IRA. A Roth IRA allows for tax-deferred growth that when withdrawn in retirement (after age 59 ½) can be withdrawn tax-free! For example, if we assume that you have a thirteen-year-old grandchild who has a summer job and you contribute $6,000 to a Roth IRA today, that contribution could be worth more than $200,000 that could be withdrawn tax free at their age 65 (assumes a hypothetical 7% rate of return)!

Consider Roth Conversions

If you have adequate assets to support your standard of living through your retirement and plan on leaving an inheritance to your heirs, considering annual Roth conversions could be a benefit to your heirs. Each year, you could make partial Roth conversions of your IRA assets so that your heirs will inherit Roth IRA assets (which will not incur a tax liability when withdrawn by your heirs) and not Traditional IRA assets (which are taxed as income when withdrawn). Even small conversions today could mean income tax savings for your heirs as the funds could continue to grow tax-free over your lifetime. Once inherited, the new provisions of the SECURE Act require withdrawal of all assets of the inherited account within ten years. Exceptions to this rule are allowed in special circumstances, such as if the beneficiary is a surviving spouse, minor, disabled, chronically ill, or not more than 10 years younger than the deceased IRA owner.

Consider Trusts

If you have any concerns about your heirs' ability to manage a large inheritance, or if they have had issues with creditors in the past, you may want to consider the use of a Trust for asset protection purposes for your heirs.

A trust is traditionally used for minimizing estate taxes and can offer other benefits as part of a well-crafted estate plan. When reviewing your estate planning needs, you may want to consider the use of a trust for asset protection purposes.

One example is the Grantor Trust. In this extremely low rate environment, there is an opportunity to remove assets from your taxable estate by selling assets to a grantor trust in exchange for a secured promissory note, bearing interest at the lowest rate permitted by the IRS.

This trust allows the grantor (the individual who establishes the trust) to have control over the trust assets and receive income that is created from the trust.

Besides the grantor trust, there are numerous types of trusts available that can help with your estate planning needs. Please consult with your financial advisor, tax professional, and attorney so they can give you guidance specific to your needs.

We hope that you found this information helpful. If you have any questions, please do not hesitate to contact your financial advisor, and feel free to share this with anyone who may find this *Guidebook* beneficial.

Have a topic you want to see covered in The Guidebook?

Call or email your advisor with a suggestion for a topic to be covered in The Guidebook. If we have covered it, we will send you that edition. If we haven't, we will cover it!

Have a friend, neighbor, coworker, or relative who could benefit from this Guidebook?

Feel free to forward our Guidebook to anyone you feel would benefit from this information. We would be happy to speak with them and answer any questions that they may have.

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