

DO I NEED TO DO MORE ESTATE PLANNING?

IF YOUR ESTATE PLAN HAS NOT BEEN DUSTED OFF IN A WHILE, YOU MAY WANT TO CONSIDER A CHECK-UP. HERE ARE SOME HELPFUL QUESTIONS TO CONSIDER.

1. DO I NEED TO UPDATE ANY OF MY BASIC ESTATE PLANNING DOCUMENTS (WILL, LIVING TRUST, POWER OF ATTORNEY, MEDICAL POWER OF ATTORNEY, DIRECTIVE TO PHYSICIANS, HIPAA WAIVER, DECLARATION OF GUARDIAN, HANDWRITTEN CODICIL TO DISPOSE OF PERSONAL EFFECTS)?

We recommend reviewing your estate plan every four years to make sure all fiduciary appointments and bequests are up to date. Watch for changes in your family or your assets. A good rule of thumb is to **review your estate plan each presidential election.**

2. DO I NEED TO UPDATE ANY BENEFICIARY DESIGNATIONS OR BANK/BROKERAGE ACCOUNT STYLINGS TO COORDINATE WITH MY ESTATE PLAN?

Certain assets pass outside of your will, such as life insurance and retirement plans. Be sure you **update the beneficiary designations when you make changes to your estate plan** or upon changes in your family or financial situation. Also watch for JTWROS and POD accounts. They override the provisions of your will and often negate the benefits that your estate plan was designed to achieve.

3. DO I LEAVE ANY INHERITANCE OUTRIGHT TO MY FAMILY?

If you leave an inheritance outright to your children, it is unprotected from their creditors, divorcing spouses, and estate tax. Instead, leaving it to a Dynasty Trust will allow the assets to be protected and pass from generation to generation. If desired, the child can be named as the trustee of the trust. With this planning, the trust assets are protected from a child's divorce. This may avoid the need for children to enter into prenuptial agreements because the child's inheritance will be owned by a trust and not by the child.

4. AT MY DEATH, DO MY RETIREMENT ASSETS PASS OUTRIGHT TO MY FAMILY?

Retirement assets left outright are susceptible to creditors, divorcing spouses, and estate tax. Instead, naming **a special retirement trust as the beneficiary of your retirement assets** allows a child to defer the income taxes and protects the assets from a child's creditors, divorcing spouses, and estate tax.

5. DO I OWN ANY LIFE INSURANCE THAT IS NOT IN AN IRREVOCABLE LIFE INSURANCE TRUST ("ILIT")?

Life insurance can be a good source of liquidity to provide for your family, the education of your heirs, and funds to pay estate tax. If you own a life insurance policy in your name, **the proceeds will be taxed in your estate** when you die. A \$1 million policy may only provide coverage of \$600,000. If an ILIT owns the policy, you avoid the 40% estate tax.

6. HAVE I PROTECTED ASSETS TO PROVIDE FOR THE EDUCATION OF MY CHILDREN AND/OR GRANDCHILDREN?

Consider making an annual contribution to a **529 Plan such as the Texas College Savings Plan or to an Irrevocable Trust** so that assets are set aside for this purpose and protected from both your creditors and your child's/grandchild's creditors.

7. IS THERE A CHARITABLE CAUSE MEANINGFUL TO ME THAT COULD BENEFIT FROM TAX-EFFICIENT GIFTING?

Consider making a charitable donation at your death using your IRA or retirement accounts. Retirement assets could be hit with both a 39.6% income tax and a 40% estate tax, leaving just a fraction of the assets to the heirs. If you leave your retirement assets to a charity instead, the charity receives the full 100 cents of each dollar. Consider a "Jackie O" Charitable Lead Trust to benefit a charity for a specific number of years with the balance then passing to your heirs.

8. DO I OWN ANY ASSETS (OTHER THAN RETIREMENT ASSETS) IN MY OWN NAME?

To minimize estate tax and protect assets from creditors, **never own assets in your own name** (other than retirement assets). Assets should be owned by an entity such as a family limited partnership, and the entity should be owned by a trust such as a 678 Trust, an Intentionally Defective Grantor Trust, or a Spousal Lifetime Access Trust.

9. HAVE I ENGAGED IN “SQUEEZE” PLANNING TO QUALIFY FOR OPTIMAL VALUATION DISCOUNTS?

By transferring assets into an entity such as a limited partnership that qualifies for valuation discounts for lack of control and lack of marketability, you can “squeeze” down the value by approximately 30-40%. There is no assurance these discounts will always be available. Act now to benefit from today’s favorable legal environment for discounts.

10. HAVE I CONSIDERED A 678 TRUST FOR MY ESTATE PLAN ALLOWING ME TO REMOVE ASSETS FROM MY TAXABLE ESTATE WHILE RETAINING ACCESS TO THE ASSETS IF I NEED THEM?

Few are aware of this unique planning technique that benefits you as well as your family. Placing assets in a 678 Trust freezes the value of the estate at its current, discounted value but still allows you access to the assets. The assets are generally protected from creditors, protected from a beneficiary’s divorce, and protected from estate tax at your death and when future generations die for as long as the 678 Trust lasts. You can be the trustee. You can also direct where the trust assets pass upon your death by exercising a special power of appointment.

11. IS MY ESTATE PLAN SET UP IN THE BEST WAY TO MINIMIZE INCOME TAX?

Certain estate planning techniques also impact your income tax. Explore ways to get the most income tax benefit from charitable gifts, save on the 3.8% NII tax, and help your heirs avoid capital gains tax by strategizing to get the best possible income tax basis step-up at death.

12. AT MY DEATH, DO I EXPECT TO HAVE ASSETS (INCLUDING LIFE INSURANCE OWNED BY ME) GREATER THAN \$5,340,000 (\$10,680,000 IF MARRIED) CAUSING MY FAMILY TO PAY A 40% ESTATE TAX ON MY ESTATE?

Bottom Line: The estate tax has been called a “voluntary tax.” Even the Walton family, the world’s richest family, has completely avoided the estate tax by employing a variety of techniques. Given enough time, a proper plan will not only benefit your family but may also reduce your estate tax to zero. The earlier you start the planning process, the more wealth you can shift out of your estate. If your estate is growing, now is the time to start planning so that future growth will be outside of your taxable estate.

This letter contains generalizations and simplifications. Prior to implementing any estate plan, you should consult with competent tax and legal counsel who will need to assess your specific circumstances in order to determine whether any particular technique discussed in this letter is appropriate for you and can be implemented in a manner designed to achieve the potentially favorable outcome desired. This communication is not intended to be, and should not be construed as, U.S. federal tax advice for purposes of Circular 230 and may not be used for the purpose of avoiding penalties under the Internal Revenue Code or other federal law. Additionally, this communication is for education purposes and is not intended to be used for, and should not be used for, the purpose of promoting, marketing or recommending to another party any transaction or matter addressed herein.