PRACTICAL PLANNER NEWSLETTER
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Creative solutions that coordinate all your planning goals:
· Estate · Tax · Business · Personal
·Financial ·Asset Protection

Planning Potpourri

Divorce: Estate Planning Steps

Destroy Old Documents: Destroy old powers of attorney, health proxies and living wills naming your ex. Even if the divorce automatically makes those documents void, why tempt anyone? Do you want your ex to be holding an original signed health proxy authorizing him to pull the plug? Watch documents that aren't obvious, such as a bank power of attorney form on file at the bank.

Sign New Documents: Update all of your documents. Frequently powers of attorney, wills and other documents name an ex-spouse, an ex-spouse's family or friends that have sided with your ex. Revise your documents and name people as fiduciaries you can trust to take care of you and respect your wishes.

Revise Beneficiary Designations: If your ex is named as beneficiary of your pension plan he/she might inherit the plan. Don't count on the fact that you're divorced to change this.

Address College Savings: If your ex is the account owner listed on your child's 529 college savings plan he/she can pull the money out at any time. Be sure to get a neutral party listed as account owner. Try to name a trust with independent trustees.

Monitor Life Insurance: Most divorces include a requirement that one spouse provide life insurance coverage, but few divorce agreements address how that coverage should be monitored. Obtain proof of payment and if possible the right to periodically receive an in force illustration of the policy. Address the type of insurance coverage required and the amount. Your ex could buy the cheapest one year term. But if he develops a health issue the coverage will become unavailable.

Property and Casualty Insurance: It is common in many divorces for some co-owned property to continue. For example, one spouse might continue to occupy the marital residence until the youngest child attains age 18. Be sure you're on the policy.

Investments: Revise your investment allocations. Most post-divorce portfolios are a mess. Don't delay, get assets reallocated in a manner that works for you. Thanks to Deana Balahtsis, Esq. NYC matrimonial attorney. PP

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PRACTICAL PLANNER

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Stop Heir Loss with Estate Planning Propecia

Summary: "I'm not only the Heir Club president, I'm also a client." "Finding the right heir loss solution is an important decision that can accentuate your lifestyle in unimaginable ways. But one size does not fit all heir loss cases." Estate taxes, medical expenses, jealous siblings, legal fees, or other avoidable problems might infringe on, or even eliminate, your anticipated inheritance. The solution should be as individual as you are. We'll use the titles "parent" and "kid" to simplify the discussion, but the concepts applys to many relationships of benefactors and beneficiaries.

Get Involved
Your active participation in the estate plan not only can maximize your inheritance, but can provide tremendous assistance to your parents or other benefactor. Too often, poor planning dissipates money. Although the proposition may offend some people's sensibilities, you should not feel guilty about planning to maximize your inheritance. Invariably, inadequate planning results in spending significant sums of money on unwarranted legal fees, professional fees, medical costs, and so on. Done properly, maximizing your inheritance should not harm your parents or other benefactors. Rather, it will safeguard their own interests and ensure that asset distribution after their death will reflect their true intent.

Open a Dialogue.
To inherit more, your first step should be to open a dialogue with your parents (aunt, uncle, or other prospective benefactor). Since much of the planning depends on cooperation from your benefactor, without a dialogue there is often little you can do to maximize your inheritance. You could discuss strategies that might give your parents comfort in later years by assuring their financial security, facilitating your own estate planning, charitable giving, addressing religious issues. Pick the most feasible approach, proceed slowly, and be sensitive. Focus on how you can help protect your parents. Has an overly aggressive stockbroker undermined your parents' financial security? Once you are actively talking about your planning, it may become a simple matter to segue from a discussion of your living will to a discussion of theirs. You need only to ask your parents if they agree with your decisions, and if they are in any way similar to the decisions they made when drawing up their living wills.

2ND Spouse/Partner
The classic 2nd marriage estate-planning approach uses trusts to provide for the new spouse while protecting assets to ultimately be distributed to children from a prior marriage. Typical estate tax bypass and marital (qualified terminable interest property, or QTIP) trusts can accomplish these goals. There are a myriad other variations and options. A life estate is common. Mom let's her new husband live in the house for life, but then the house reverts to you and your siblings. Sounds great and seems simple, but it's not. Although it's common and inexpensive, it's not always the best option when you want to maximize your inheritance. Too many ambiguities and issues are left unsettled when implementing a standard life estate. What if the house needs a new roof? What if the new husband moves into a nursing home? Prenuptial (spouse) or living together (partner) agreements are vital to protecting assets from the new spouse/partner. If dad uses trusts in his will to protect your inheritance, that might be nice, but it may

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Checklist: 2010 Planning

Summary: The economy, the estate tax, and investment markets are all making planning feel like the roller coasters at Cedar Point.

√ Wide Net. "Wealthy" folk need to watch the developments and stay flexible. Wealthy is in quotes because the next episode of the estate tax may nail many who don't feel particularly rich (think "AMT.") If the exclusion drops to $1M in 2011 (which is what the law provides), and if inflation kicks up in future years as a result of bailout/stimulus spending, the estate tax net will grow wide. Further, states are hurting for revenue and may step up enforcement of their estate taxes and may even enact tougher taxes. Connecticut's recent liberalization of its estate tax may prove the rarity.

√ Example: Your estate is $5M. Under current law you and your spouse can, with proper planning, avoid federal estate tax on a $7M estate. But if the exclusion drops to $1M your heirs will have quite the haircut. Action Step: Remove assets from your estate now to flexible structures. Do this before inflation kicks in, while asset values are low, while interest rates are low (it

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prove academic if his new partner/ spouse spends or takes all the assets before his death. Get dad to consider entering into a prenuptial (or postnuptial) or living together contract with his new spouse/partner to minimize the likelihood of legal and financial entanglements if the relationship terminates.

A spousal right of election can be important in determining the ultimate distribution of a married decedent's assets. This is a right under state law for a surviving spouse to take a specified minimum percentage of the deceased spouse's estate no matter what the will said. Unless your parent has planned to address this, or had the new spouse waive it, you might lose a large chunk of your inheritance.

Insurance Coverage

A conversation about QTIPs may prove irrelevant if key assets are lost to fire or theft. Insurance means more than life insurance. Life insurance can be essential to protect your parents' assets by providing for a new spouse, paying estate taxes, or providing liquidity to ride out a downturn in the market before you have to sell. It can be the toupee of planning – covering up for assets bequeathed elsewhere. A house without fire and casualty insurance may be a total loss in the event of such a calamity. A theft can be devastating to the financial worth of a parent who has never insured valuable art, coins, or other collectibles, or has insurance that is based on an assessment made 30 years ago. Elderly parents who have no nursing home or long-term care insurance may deplete their assets to the point that their children must help support them.

Financial Planning/Investments

Consolidation of a parent's financial assets is a simple, no-cost step to help your parent achieve important financial goals: control over her finances, safety through better investment planning, simplicity so she can follow the accounts and transactions, etc. Consolidation minimizes probate expenses and delays. Fewer accounts makes it much easier to maintain an investment allocation consistent with your parent's risk profile. Budget is not a 4 letter word. Proper investment decisions require an analysis of financial needs, time frames, and expenses. Who is helping your parents make these decisions? Proper investment and budget planning will assure that your parents' wealth will, to the extent feasible, last them throughout their lifetime. Longer life spans mean investment and spending have to consider the real time frame. The average woman will live 22+ years in retirement. In 1950, the figure was only 14 years. That is 8 more years to risk running out of money and to exhaust your inheritance. The only way to assure your parent adequate resources for her retirement years is to put in place an optimal investment strategy. And the real issue is that the preceding figures are averages. An average means a lot of people will live a lot longer in retirement than 22 years. So unlike a popular book about dying broke, your advice to your parents should be to focus on saving and spending so that their money will last to say 95%+ of their life expectancy.

Investment policy statements (IPS) are an essential tool. If your parent hired a professional to manage her money, she should have signed an IPS that clearly identifies her investment goals and objectives.

Theft and Loss

Theft or loss of valuables is not uncommon. 50% of those over age 85 have some cognitive impairment. As parents age, the likelihood increases of a home health aide walking off with a coin collection and a piece of jewelry inadvertently ending up in the trash. Take steps to properly account for, insure and protect personal property. Move small valuables that are not needed to a safe deposit box. If a parent dies, secure their residence (change locks and alarm codes or install an alarm if none existed). If a parent loans family or friends money, encourage them to have a note signed documenting that the advance was a loan and not a gift. Many borrowers seem to develop selective memory about the nature of the transaction when questioned at a later date about a loan they received. PP

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Review: Andrew Wolfe, CPA, JH Cohn LLP, Roseland, NJ.

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...Checklist: 2010 Planning

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makes many techniques more efficient at shoe-horning value out of your estate).

√ **Trust Toggle**. Chubby Checkers started it with the Twist, now it's the Toggle. Tom Bergeron's next show will be "Dancing with the Tax Attorneys." Grantor trusts are trusts with the income taxed to you. Set up grantor trusts for kids and if estate tax is repealed, or the exclusion stays high, or if the relationship of marginal to lower income tax rates change (so it's better for the trust to pay income to your kids to be taxed at a lower rate), your trust protector can turn off grantor trust status to save yourself income taxes. If the estate tax grows nastier, keep grantor trust status activated to continue reducing your estate. See CCA 200923024.

√ **DAPT**. Set up and make gifts and/or sales to a self settled domestic asset protection trust (DAPT) in a state like Delaware which permits you to be a beneficiary. If you need money because of future economic issues, as a beneficiary the trustee can make a discretionary distribution to you. If the estate tax remains burdensome, the growth in the transferred assets should be outside your estate, generating important estate tax savings. Your heirs might also be able to realize a significant state income tax savings. If Congress acts to restrict this type of planning, hopefully your completed plan will be exempted (grandfathered). While that might be a risk, isn't doing nothing a bigger risk?

√ **529**. Put money in 529 plans for heirs. If the estate tax is repealed, or the exclusion remains at a level that exempts your estate, you can take the money back.

√ **Convert**. Roth IRA conversions can provide important estate tax savings. In 2010 you can convert without the $100,000 adjusted gross income limitation that had prevented many wealthy taxpayers from changing their regular IRA to a Roth. This is a great opportunity for many in that the income tax you have to pay on the conversion will be removed from your estate. For info on teleconferences discussing Roth conversions see www.ultimateiratraining.com.

√ **Insurance Trusts**. Too many people own life insurance in their own name (or set up a trust but never reviewed its operations with their estate planner to be sure its done right). That means the insurance is in your taxable estate. You may have been unconcerned in light of the talk of repeal and the growing exclusion. A $1M exclusion will change all that. Even if you transfer your insurance to a trust you must survive 3 years for the insurance proceeds to be out of your estate. Act now to get the 3 year period tolling. The cost relative to the potential benefit in this new estate tax environment is miniscule.

√ **Insurance**. Buy insurance! Consider a cheap term policy with some conversion options. This can provide flexibility and security. Example: Your estate is $3M. No tax. Next year Congress reduces it to $1M. You have a stroke and are no longer insurable. Bam! How is that tax going to be paid? A term policy while your health permits it, locks in the ability to convert to a permanent policy to

Recent Developments

CT Estate Tax Made Less Harsh: For deaths and gifts on or after 1/1/10, the CT exclusion is increased from $2M to $3.5M. This is consistent with current federal law. Under old law, an estate or gift valued at $2M or less was not taxed. If more than $2M, then the entire estate was taxable. This resulted in a "cliff" in which a $1 increase in the value of an estate from $2M to $2,000,001 increase tax liability from –0- to $100,000+. The new law increased the flat tax rate for trusts/estates from 5% to 6.5% in 2009. Filing deadlines were accelerated so an estate tax return is due in 6 instead of 9 months after death. Thanks Martin Rader, Esq. Pinney Payne, P.C. Danbury.

CT Business Tax: Changes will ensnare more businesses in the Connecticut tax system. Under prior law a business needed a "physical presence" in CT to pay tax. The new law is much broader and will subject a business (and/or the equity owners) to Connecticut tax if the business had a "substantial economic presence" in Connecticut, or if it derived income from sources within CT. If your business purposefully directs business into CT it will have a tax nexus. A business' purpose would be evaluated by the frequency, quantity, and systematic nature of its economic contact within CT.

Personal Injury Settlement: Generally not included in gross income, other than punitive damages. IRC Sec. 104(a)(2). This result will be available whether or not the amounts are received by suit or settlement agreement payments by individuals on account of personal physical injuries (including death) or physical sickness. This exclusion had required that excluded damages must derive from a tort claim. This requirement was relaxed in Prop. Reg. 127270-06 9/14/09). The requirement to qualify for tax exclusion that damages must