

It's time to review your estate plan – again

By Gerald M. Morello, Jr.

Each person, regardless of age, net worth, employment or marital status should have a comprehensive estate plan in place. The 2012 Tax Act provides a great opportunity to simplify your estate planning and to better provide for the future of your children and grandchildren.

If you do not have a comprehensive estate plan in place, now is the time to develop one. First, think about the key appointees within your documents. Are you comfortable with who you've selected to handle your financial and medical affairs if you become ill or pass away? Second, are your beneficiaries up to date? Third, does your trust provide age (or other) restrictions for beneficiaries that are still appropriate?

PLANNING FOR MARRIED COUPLES

Historically, a married couple needed to establish two separate AB type trusts to protect both the husband's, as well as the wife's, exemptions against the Federal Estate Tax. For a married couple, if you did not "protect it," you would "lose it." Now, with proper planning, most married couples can protect both the spouse's exemptions against the Federal Estate Tax (\$5.43 million each for a total of \$10.68 million) by doing some very simple, straightforward planning. This simplified approach will not always be appropriate planning; it's based on many factors the clients should be made aware of.

IRA rules are complex, yet critically important in the estate planning arena. Most clients have retirement accounts, and desire to continue the power of tax deferral for the beneficiary after one's death. A properly designed Revocable Living Trust that has IRA Conduit Trust provisions will ensure continued tax deferral on these accounts for the beneficiaries.

Our offices, for example, utilize Lady Bird Deeds to protect a primary residence during a nursing home stay from the Medicaid spend-down rules, while ensuring that, at death, the home ultimately is transferred to the trust in order to avoid the Michigan Estate Recovery Act. This act provides Michigan the ability to be reimbursed for Medicaid costs from the sale of the primary residence after the taxpayer has passed away.

Your estate plan should be reviewed on a regular basis with an experienced estate planning attorney to ensure your important legal affairs are in good order.



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