Flash! News from the Pomona Plan
A Financial Guide for Friends and Alumni of Pomona College (800) 761-9899
Spring 2014

Common Estate Planning Mistakes

Estate planning is caring for yourself and your assets while you are living and providing for the transfer of assets to persons and organizations—both during and at the end of your life. While that seems straightforward, people commonly make mistakes that prevent the attainment of their objectives. Here are some of the more common ones and suggestions for avoiding them.

1. **Procrastination.** Inaction rather than wrong action is the number one problem. Engaging in a process that reminds us of our mortality, that requires a compilation of records, that causes us to make difficult decisions about division of assets and entails expense is not something we welcome—so it is easy to put off this chore to another day. Unlike a New Year's resolution, you can resolve any time of the year to complete or update your estate plan. Doing so will give you a great sense of relief.

2. **Not executing a valid will.** A will is the cornerstone of an estate plan, and everyone should have one to dispose of assets that are not passed by joint tenancy, beneficiary designation or trust. Sometimes, in order to save costs, individuals attempt to draft their own wills, perhaps by purchasing a do-it-yourself will kit. If state requirements are not met, the will could be of no effect. Even if it is valid, the generic language may not capture your intentions. In a matter so important, it is highly recommended that you have your will drafted by a skilled attorney.

3. **Failure to title assets in the name of your living trust.** Sometimes individuals have their lawyer prepare a revocable living trust document. They could do this for a variety of reasons—eliminate some costs and delays associated with probate, to avoid probate proceedings in another state where they may own real estate, to provide for management of assets in the event of incapacity and to maintain privacy. Unfortunately, people often fail to take the next, critical step, which is to retitle assets in the name of the trust. If no assets are actually transferred to it, the trust agreement is an empty shell. Thus after signing the trust agreement, work with your attorney to make sure that real estate, brokerage accounts and other assets you want in the trust are actually transferred to it.

continued on page 2

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4. **Not coordinating your will with other means of transferring assets.** Suppose you intend for your children to receive equal shares of your estate, and that is how you drafted your will—but as a matter of convenience you name one child, who lives nearby, as a joint tenant of your residence with right of survivorship. That child would receive the entire residence plus his or her share of probate assets governed by the will. When planning for the disposition of your estate, you must coordinate what is governed by your will with what passes by through other instruments. With reference to charitable legacies, this can mean deciding whether to give by bequest, trust or by naming the charity as beneficiary of a retirement account or life insurance.

5. **Inadvertently disinheriting certain heirs or charities.** In the case of a second marriage, where each partner has children by a previous marriage, the spouses may intend that all of the children are treated equally and that certain charitable gifts are made, but that may not happen if the first spouse to die simply leaves everything to the surviving spouse. Also, unless certain steps are taken, some of your assets could wind up with an ex-son-in-law or daughter-in-law in the event of a divorce. A trust can address these issues and also assure a charitable gift.

6. **Not planning for incompetence.** Some people mistakenly think they have completed their estate plan when they have provided for disposition of assets at death. Often overlooked is a plan for management of your assets in the event that an accident or serious health condition renders you incapable of doing so. The solution is to give a durable power of attorney to someone who can act on your behalf when necessary. Also consider a directive to physicians regarding medical treatment when you can't speak for yourself.

Estate planning can be complex, especially for estates large enough to be subject to estate tax. These are just a few mistakes to be avoided to prevent chaos and frustration.

Portability

Definition: The capability of moving something from one place or person to another place or person.

What does portability mean in estate planning? Each individual is entitled to a combined gift and estate tax exemption of $5,340,000 in 2014 (and that amount is indexed for inflation in future years). The portion of a deceased spouse's exemption that is not used can be rolled over to the surviving spouse by making an election to do so on the deceased spouse's estate tax return. Suppose a husband and wife were equal owners of a $9,000,000 estate, and the husband died in 2014 and left his share to his wife. The property passing to his wife would not be subject to estate tax because of the marital deduction. When his wife dies, the carried-over $4,500,000 would be added to her exemption.

How does portability benefit families? Portability allows couples to achieve estate tax savings without the complexity of creating a family trust. Before legislation allowing portability was enacted, a couple with a larger estate would typically provide for a family trust to be established at the death of the first spouse. The trust would be funded with an amount equal to the exemption at the time, and by using the exemption no estate tax would be payable. The surviving spouse would receive income from the trust, and upon his or her death, the remaining assets would be distributed to the children. The trust assets would not be included in the survivor's estate, and no estate tax would be assessed against them.

Is portability always better than a family trust? Not necessarily. The deceased spouse may want to assure gifts to children by a previous marriage or to favorite charities. This is better accomplished by establishing a trust where the surviving spouse receives income but the deceased spouse controls the disposition of the trust principal. Another reason for a trust is to provide for expert management of assets. Also, the appreciation on assets placed in the trust will not be subject to estate tax.

What should I do? You may have signed your existing will before the portability provision became law, and that will may have provided for one or more trusts to be established at your death. A change may or may not be advisable, but at least you should review the matter with your attorney. Preparatory to that meeting, we can provide information on how you can leave a charitable legacy regardless of how your estate plan is structured.

Five Gifts Involving Retirement Funds

Some individuals will need every penny of their retirement funds for personal expenses. Others need only withdraw the minimum required amount from retirement accounts because they have substantial income from other sources. Their retirement accounts may have significant balances at the end of their lives. If you are among the fortunate ones who have surplus funds in an IRA, 401(k), 403(b) or other retirement fund, you may consider making your charitable gifts with those funds. This could be the most tax-advantaged way to make your contributions. Here are five examples of gifts involving retirement funds.

1. **If you plan to both provide for heirs and make a legacy gift at the end of your life,** name the charity as beneficiary of all or a percentage of your retirement account and give other assets to your heirs. If your heirs are beneficiaries of retirement funds (other than those in a Roth IRA), they will pay income tax on those funds, whereas retirement funds received by the charity are not subject to income tax. In place of the retirement funds, give your heirs other cash or property which will pass to them free of income tax.

2. **An alternative that may be preferable to a direct gift of IRA funds is to give appreciated stock** and then withdraw an equivalent amount from your retirement account. For example, you contribute stock with a market value of $50,000 and a cost basis of $10,000. Then you withdraw $50,000 cash from your retirement account. The deduction offsets the tax on the withdrawal, and you are not taxed on the gain in the stock. If you like the stock, use the cash distribution to repurchase it, thereby getting a stepped-up cost basis.

3. **Suppose you are considering a conversion of a portion of your regular IRA to a Roth IRA.** A Roth IRA is appealing because distributions to you or heirs are tax-free, and there is no mandatory beginning age for the distributions. However, the amount converted is fully taxable. If you are planning to make a large gift for a capital campaign or possibly establishing an endowment, make that gift and do the Roth conversion in the same year. Assuming the gift and conversion amounts are the same, you may avoid any current tax and receive tax-free income in the future.

4. **Perhaps you would like to make a legacy gift,** but you want heirs to benefit from all remaining retirement funds. In that case you could arrange for some of the remaining funds to establish a testamentary charitable remainder trust or gift annuity that would pay income to your heirs for life or alternatively (in the case of a trust) for a term of years. At the termination of the trust or annuity, the charity would receive whatever portion of your gift remains and use it according to your direction.

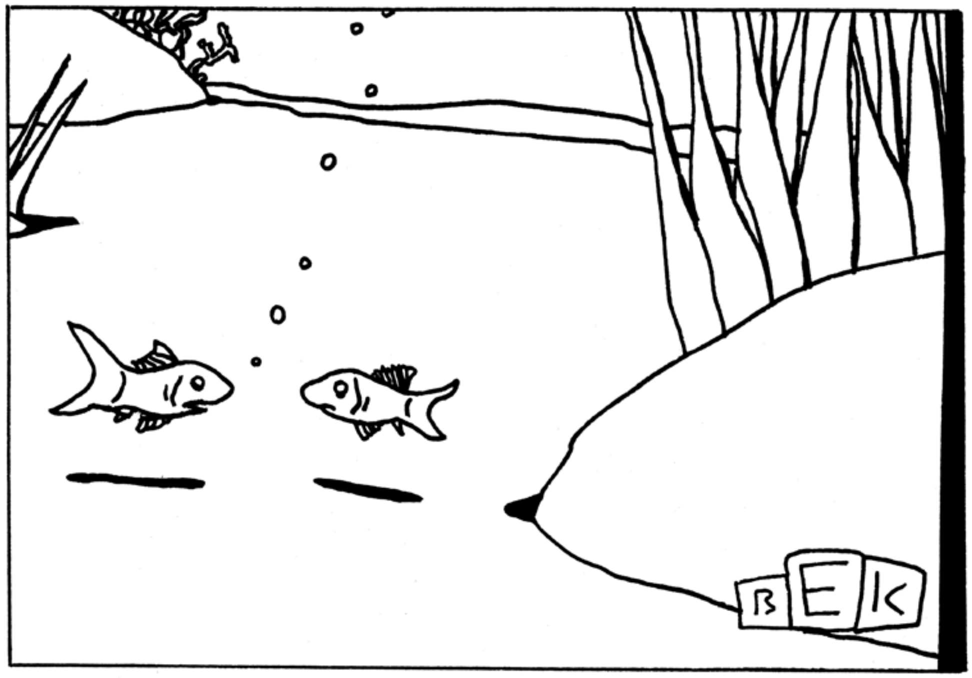
5. **If you have a regular IRA and are over age 70½, you can transfer up to $100,000** to one or more charities through what is commonly referred to as the IRA charitable rollover. The amount transferred will count towards your minimum required distribution, and it will not be included in your taxable income. If your retirement funds are in another plan, such as a 401(k), you would first roll those funds into an IRA and then make the transfer from the IRA. (Note: this rule has been allowed to expire at the end of 2013 and the ability to make these gifts depends on that legislation being reauthorized in 2014.)

"Edgar, you've been retired for three years now. Why don't you loosen your tie?"

FROM THE DIRECTOR:

A Comprehensive Plan for Giving—Problem Solved!

Dan and Val Trace, both Pomona alumni, began their pre-retirement planning with a wonderful and very big surprise: an increase in income! With more assets on-hand than they expected—just over $3 million—they realize how wise they were to make several choices earlier in their lives. First, they saved methodically. Second, they monitored their investment choices in their employer's 403(b) program. And last, because of their passion for their careers, they both worked past traditional retirement age.



"I want the whole package—the little bowl, the colored pebbles, the plastic castle."

With their retirement income assured, their thoughts turned to Pomona and the *Daring Minds* campaign. So they picked up the telephone and called a regional director in the Office of Trusts and Estates. Working with the director, they worked out a structured plan that incorporated their current annual giving, their interest in creating a named endowment for a strategic initiative (they decided to support the Summer Undergraduate Research Program or SURPs), and a sizeable bequest to secure their legacy. Even though they feel their income is more secure than ever, they also talked about the possible role of life-income agreements.

What emerged was a *comprehensive gift plan* for the Traces. It was a strategic move that added a great deal of value and sophistication to their philanthropy, allowing them to achieve goals they had not previously thought possible. Just as the care they took to save wisely benefitted them, their thoughtfulness about how and when to make their gifts opened new doors. If you or your family desires to take a more strategic approach to your giving, Pomona College can help. Our experienced development officers would be happy to assist you.

May we help you plan?

Robin Trozpek
Director

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