

The DAILY PLAN-ITTM

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New Tax Law Compels a Review of Clients' Plans

With the recent passage of the Tax Cuts and Jobs Act of 2017, your clients' wills, trusts and other planning documents are due again for a once-over. This is an opportunity for you to reach out to clients and find out any questions or concerns they have about what the new tax law may mean for their families.

Federal estate tax exemptions have been doubled to about \$11.2 million per person. For couples, it is now \$22.4 million. Fifteen states still levy their own estate taxes (Minnesota, Iowa, Nebraska, Washington, Oregon, Kentucky, Tennessee, Pennsylvania, New Jersey, Massachusetts, Rhode Island, Connecticut, Delaware, Maryland and the District of Columbia).

With the federal exemption drastically increased, some clients may assume they won't need to update or even create an estate plan since they don't have enough in their estates to trigger the tax. But a large exemption doesn't solve most people's estate planning issues.

As advisors know: Proper estate planning has never just been about taxes.

Avoiding Probate

If your client dies without a properly executed revocable trust, then it is possible that the entire estate goes through the probate process and the assets pass according to the laws of his or her state. The hearing is public, and creditors or anyone who feels they have a right to the assets can make a claim. It's costly to the estate, and the legal proceedings are often a stressful ordeal for your client's surviving loved ones.

There are some ways in which your clients' assets may pass outside of probate, including joint tenancy, payable on death, transfer on death, beneficiary designations, life estate/remainder titles, and transfer on death deeds. However, they should not presume these strategies alone are enough to protect their estates from financial threats. They should seek an experienced estate planning attorney to regularly review all strategies in place.

Creating Protections

Your clients might say all they want and need is a short and simple will. However, wills don't bring the powerful and flexible protections that a trust brings to a client's surviving spouse and children. Also, wills don't include the same protections for incapacitation and other

issues that may come later in life as your client ages.

Accurate Formulas

If a client created a trust previously and doesn't intend to update it, there's also a potentially disastrous risk he or she is facing. With the change in exemption levels, any formulas used in the old trust's language to fund bequests could unintentionally disinherit a beneficiary or group of beneficiaries.

Life Insurance

Some of your clients may have old life insurance trusts that were set up to pay an estate tax when the exemption was much lower. Does that still make sense now? Even if the estate tax is no longer relevant, in more than 20 states your client may be able to merge or decant an old insurance trust into a new trust.

Financial Control

It's possible for your clients' intentions to fall apart if their durable financial powers of attorney (POA) documents aren't specific enough to direct how their finances should be managed if they become incapacitated and unable to make decisions.

A vaguely written or overly general POA might allow an agent managing your client's money to legally make gifts to whomever he wishes and change beneficiaries on financial accounts. The agent might make decisions about the assets in a way that your client never would, in turn jeopardizing the inheritance of your client's intended heirs.

Regardless of the latest tax changes, we always encourage clients to come to our office at least annually or whenever there are any major life changes, in order to conduct a review of their estate plan documents. Life changes could include the birth of a new child or grandchild, a marriage, a divorce, the death of a spouse or child, the receipt of an inheritance, the sale of a business, retirement, the onset of a chronic illness, or sudden disability.

We hope this information is useful to you and helps your clients and their families. If you have a specific case or a question, please don't hesitate to call our office.