Schwartz Financial Services

Comprehensive Wealth Management & Retirement Planning

Updated for 2015

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Updating Your Estate Plan: Preserve and Protect Your Wealth

The primary purpose of estate planning is to preserve your wealth for your loved ones. In doing so, you try to assure its transfer to designated beneficiaries at the time and in the manner of your choice. Most investors also want to keep costs reasonable while causing the least amount of pain and suffering to those managing their affairs.

If you do not update your estate plan on a regular basis, or for some reason do not have an estate plan, you could experience a myriad of problems. Taking the time to manage your estate plan can help you avoid having the wrong people inherit your property or assets. It can also protect you from paying more taxes than necessary. Proper estate planning can make an already difficult time a little easier for your loved ones.

You may have read that the will of the late actor Heath Ledger was out-of-date at the time of his death. Sadly, he didn't update his will after the birth of his daughter. His assets went to the named beneficiaries at the time, his parents and sister. This led to bitter debate and family discord until an agreement could be reached. *(forbes.com 2/23/14)*

When legendary singer John Denver passed, he didn't even have a will. His family spent 6 years in probate court.

These are just two examples of what happens to thousands of families each year. According to a recent study, only 29% of people age 18-34 and only 58% of people aged 55-64 have wills. *(aarp.org 5/12)* That leaves a whole lot of people dying intestate with the fate of their property left to state law.

Who Should Have an Estate Plan?

No matter what your net worth is, you should still have an estate plan. Most people fall into at least two of the categories listed below and therefore need to have, at a minimum, a basic estate plan:

- They have minor children,
- They have assets they want to pass onto certain people in a specific way,
- They suspect they may become incapacitated in the future,
- They own a business,
- They have an estate large enough to be subject to estate taxes,
- They own property in more than one state,
- They are in a non-traditional relationship,
- They have other individuals who are not immediate relatives who they want to receive part of their estate.

Remember, everything you own, from your home, to bank accounts, personal jewelry and even life insurance and retirement plans, are part of your estate and should be accounted for when creating your estate plan.

Estate Planning Essentials

Here is a list of key components that every estate plan should have on file.

- ✓ Will
- ✓ Durable Power of Attorney
- ✓ Living Will
- ✓ Revocable Living Trust
- ✓ Health Care Proxy
- ✓ Beneficiary Designation Forms
- ✓ Married Property Agreement

When Should I Review My Estate Plan?

Reviewing your estate plan at least every two years is recommended to ensure that any new tax law changes or changes in your personal situation do not require a change to your plan. A competent financial advisor who stays informed and up-to-date of tax law changes that can affect your estate plan can assist you in assessing your current financial situation, identifying any changes that need to be made and implementing any of those changes.

Your plan may also have changes that need to be documented when:

- You want to change your executor or trustee,
- There is a change in your marital status,
- There are additions to your family or new dependents,
- You are the recipient of an inheritance or gift,
- You retire,
- You have made a major purchase such as a new home,
- Your spouse becomes ill or disabled,
- There has been a death in the family,
- Any major life event has occurred.

Here are some basic steps that should be considered when reviewing your estate plan.

1. Organize Your Records

Everyone involved will benefit from well-organized estate records that show all your assets and the cost basis of those assets.

If you are helping a sick parent or family member, it is probably worth your time to see if they keep organized records now to avoid possible headaches later.

Always make sure all of your records are safely stored.

2. Review all of Your Beneficiary Designation Forms and Documents

Some of your assets will not pass through a Will or Living Trust. For example, if you have life insurance or retirement accounts you need to make sure that your beneficiary designation forms are current with the beneficiary designations that you want.

Remember, a beneficiary form will always override any trust or will directive. It is wise to review all of your Beneficiary Designation Forms periodically and to keep a copy with your estate plan records.

3. Review Your Will and Living Trust

Review your will and living trust with your attorney. It is not recommended that you prepare these documents yourself as the language need to be comprehensive, detailed, and inclusive.

In addition to making sure you update your will or living trust when there are add-ons or deletions of beneficiaries, etc., make sure you have language that protects you against any change in estate tax exemption amounts.

Many estate planning documents do not identify a specific sum that will fund a trust. Rather, they often refer to a percentage. Phrases such as “that amount,” or “that fraction,” or “that portion” are many times standard practice.

Seek the advice of a qualified attorney and tax professional to make sure your estate and its beneficiaries do not incur more taxes than necessary. See section “*Tax Implications of Your Estate Plan*” for further information.

4. Review what state estate or inheritance taxes, if any, exist.

Check to see if you are in a state that has state estate or inheritance taxes. State law changes frequently so it is wise to consult with your financial advisor for up-to-date information.

Also, most states honor a will that was signed within that state. You should check with a local lawyer to make sure the state you currently reside in honors your will if you are unsure or if you have moved states recently.

5. **Review Titles on all of Your Non-retirement assets.**

It is important to review titles on all non-retirement and non-life insurance assets. Joint tenants, also known as "joint tenants with right of survivorship", will override everything, including your will, trust, and any other estate plan. Be sure to review this with your estate planning attorney to make sure all titles are held properly.

6. **Create Letter of Instruction**

A Letter of Instruction addresses specific personal requests not in your will. You should have someone open it in case of severe illness, incapacitation or post-mortem.

7. **Medical Advanced Care Directives/End of Life Decisions**

You should also have medical directives should you become unable to express them yourself. Make sure your family members know what you want them to do. Express your wishes with advanced-care directives. You should consider having a living will, medical durable power of attorney, and any death bed issues clearly expressed.

8. **Review trusts as needed.**

Trusts still continue to be an important part of estate planning and can sometimes protect against financially irresponsible family members, former spouses and creditors. Make sure they are reviewed and updated.

You may also want to consider a Bypass (Credit Shelter Trust) if you do not already have one. These types of trusts often include a formula clause that allocates the maximum tax-free amount to the trust if you die before your spouse. This trust can then distribute your assets as you specify in the trust document. For example, it can leave money to your spouse and family members while your spouse is still alive and eventually pay what is left to the family members upon the death of your spouse. By using a trust rather than leaving your funds to your spouse outright you can be sure that neither the assets nor their appreciation will be considered a part of your spouse's estate and therefore will not be subject to tax when he or she dies. Although there is currently no estate tax if you die and leave your assets to your spouse, depending on how your formula clause is worded, it is possible that all of your assets can go into a Bypass Trust. This needs to be done right, so please proceed with caution and discuss this with your financial advisors first, otherwise, this strategy could lead to some potentially painful scenarios.

Tax Implications of Your Estate Plan

Let's briefly review the changes that were made as a result of the American Taxpayer Relief Act (ATRA), which was signed into law on January 2, 2013.

- The Estate and Gift tax rules are unified again. This means that lifetime gifts are reported and gift tax is paid annually if you have excluded your lifetime exemption.
- The Maximum Tax rate is 40%.
- The applicable exclusion amount is $5,430,000 for 2015 (with inflation adjustments).
- Portability has been made permanent.
- The applicable exclusion amount will be adjusted annually for inflation.
- All Generation Skipping Tax Provisions were extended.
- Annual gift tax exclusion is $14,000 per recipient

	2015
Top Estate Tax Rate	40%
Estate Tax Exemption	$5,430,000
Gift Tax Exemption	$5,430,000
**These are Federal only and do not include state estate tax rates.*	

per donor per year.

- Taxpayers over 70 ½ no longer have the ability to make charitable contributions of up to $100,000 directly from your taxpayer's IRA without paying tax.

Failing to plan for the tax consequences of your death can be very costly for your beneficiaries. It can also lead to the government, not your loved ones, inheriting a large part of your hard-earned estate.

A vital mistake in planning caused the late Philip Seymour Hoffman's estate to face higher taxes than were necessary. Since he left his assets to the mother of his children and they were unmarried, the entire amount above the exclusion was immediately taxable at a rate of 40%, plus up to 16% for the state of New York. In addition, when Marianne O'Donnell passes away, it will be taxed again if the total asset amount still exceeds the estate tax threshold). Had they been married or he left his assets directly to his children in a trust, the assets would have only been taxed once, not twice.

It is important to talk to a qualified tax professional to determine what is taxable and what is not, what the projected and estimated taxes will be on your estate, and how to minimize any unneeded tax consequences. A poorly designed estate plan can be very costly.

In conclusion, as mentioned before, the primary purpose of estate planning is to preserve your wealth and try to assure that it is transferred to your designated beneficiaries at the time and in the manner of your choice at very reasonable costs with the least amount of pain and suffering.

Having the right professional helping you along the way can greatly streamline and alleviate any pitfalls or challenges this process can face. Trying to create and manage your estate plan by yourself is not recommended. You should always seek out the advice of a qualified financial professional and attorney who can work together to make sure that your estate is properly planned on your specific terms.

Plan wisely to ensure that what you have spent your lifetime accumulating is properly distributed on your terms!

If you or a loved one needs assistance in creating or maintaining an estate plan, we can help! Please call our office and we'd be happy to assist you in this and your other financial needs.

Schwartz Financial 2015 Client Advocate Program

This year, our goal is to offer our services to several other clients like yourself. We would be honored if you would:

- Suggest a friend to receive our mailings
- Share this newsletter with a friend or colleague
- Bring a guest to one of our workshops
- Share the news of our complimentary consultations

Those clients who do any of the above will be entered into our Client Advocate Program which includes our sincere gratitude and a special event this fall.

If you are currently not a client of Schwartz Financial, we would like to offer you a complimentary, one-hour, consultation with one of our professionals. Please call, 215.886.2122.

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