Could This Be the End of All Your Estate Tax Problems?

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The answer to the above question is a thundering 'yes' for about 99 percent of everyone reading these words, because it is almost certain that the tax law will be changed to make the "unified credit" (the amount of your wealth that can be left to your heirs free of the estate tax) $3.5 million (or more) per person. That's at least $7 million tax-free for a married couple.

With a $7 million freebie to start if you are married and worth about $14 million (or less), legally beating the estate tax will be an easy-to-attain goal.

The fact is we always have been able to beat the estate tax—whether you were worth $5 million or $50 million. Now, it's just going to be easier. But let's face it, an estate plan does absolutely nothing until you enter the pearly gates. Logic tells you that a proper estate plan must include a lifetime plan to address the period from today until you die.

With the new unified credit (at least $3.5 million, $7 million if married) the estate-tax monster won't be scaring as many people. The goal of this article is to change the way you think about estate planning.

For the moment, please pretend you are my client, sitting in my office to talk about your estate plan.

Here's the first question I typically would ask: "Assuming, (Type 1 clients) you do not have enough wealth to worry about being hit by the estate tax or (Type 2 clients) perhaps you know you will be hit hard by the estate tax but for the moment, forget the awful tax even exists and tell me, what is your single biggest concern?"

Let's talk about the major difference between Type 1 clients and Type 2 clients separately. (You can only be one of them.) Hands down, the most important concern of a Type 1 client is, "To maintain my lifestyle, and my spouse's, for as long as we live." Sure the client has other concerns—stay healthy, transfer the family business to the kids, treat the nonbusiness kids fairly—but lifestyle is always stage center.

So professionally, we quickly take care of the Type 1 client's death planning: wills, trusts, life insurance. Always, the real emphasis is on lifetime planning: transfer the business to the kids tax-free, yet have dad keep control (via voting stock) for life. Make sure mom and dad have the best health insurance at minimum cost. Create a wage continuation plan for dad (from the family business) if someday he can no longer work. Protect personal assets.

What's usually the biggest single lifetime planning task? Make sure with the help of others that Type 1 clients get the highest rate of return on their investments, while minimizing risk.

Now let's talk about Type 2 clients. They are affluent. Yes, they have an estate-tax problem, but they have enough wealth to no longer have lifestyle concerns. Can you guess what is their biggest concern (aside from the estate tax, which we known how to legally conquer) that requires lifetime planning? If the client still owns a business, transferring it in a tax-effective way is their biggest concern. Waiting until death only enriches the IRS—instead we use an intentionally defective trust to transfer the business to the kids or perhaps key employees tax-free. Yet dad keeps control of his business for as long as he lives, but for estate-tax purposes, it's gone.

But what if the Type 2 client has sold the business and now sits on a pile of cash or over the years has accumulated a sizeable amount of cash and a significant stock and bond portfolio? Typically, those clients also have a large amount (often in excess of $1 million) in their qualified plan (401(k), profit-sharing plan or IRA). Almost all either were or have turned conservative—their goal is to maximize their rate of return on these investable assets, while minimizing risk. One of the fun parts of the planning system we use for these clients is to help them accomplish this goal.

One final fact about Type 2 clients: Their wealth (in normal times) tends to double every six to nine years, exacerbating the estate-tax problems. So, of course, we design a lifetime plan to maximize the growth of the client's wealth, but dovetail the lifetime plan with the estate plan to eliminate the impact of the estate tax.

It's not as complicated as you think. Take this article to your professional advisor and discuss how the following strategies, which we use for most Type 2 clients, might apply to you:

• For your business:

a) A captive insurance company to significantly lower your property and casualty insurance costs, and

b) An intentionally defective trust to transfer your business to your kids or employees (really the best succession plan) tax-free.

• For your residence:

a) A qualified personal residence trust, or

b) A 50/50 revocable trust ownership.

• For your qualified plan funds (i.e. 401(k) IRA):

a) A retirement plan rescue, or

b) Subtrust (both avoid double taxation of your funds) and turn them into 3 to 5 times more tax-free wealth.

• For your investment-type assets (like real estate, cash-like assets, stocks and bonds) a family limited partnership.

When the above strategies are done right, it is not difficult to escape the clutches of the estate tax monster.

And if you have charitable intent, look into charitable lead trusts, charitable remainder trusts and those wonderful family foundations. You can leave millions of dollars to charity without reducing the amount of your heir's inheritance.

Have a question? Check my websites: www.taxsecretsofthewealthy.com and www.estatetaxsecrets.com. In a hurry, call Irv at 847/674-5295. **MF**