Creating a lasting legacy

Strategies for effective estate and tax planning

Denise Lambert, Director, Wealth Planning Strategies
Welcome to today’s presentation

This presentation (including the PowerPoint and any written materials provided) has been prepared for you as an educational benefit. This information should not be relied upon by you as tax or legal advice. Examples included in this presentation are hypothetical and for illustrative purposes only.

You should always consult with your own attorney and/or tax advisor before making changes to your individual investment, financial plan and/or estate plan.
Today’s agenda

1. Basic estate planning considerations
2. Estate tax planning
3. Avoiding the most common estate planning mistakes
4. Establishing a trust to preserve your wealth and your values
5. The TIAA Individual Advisory Services offering
Basic estate planning considerations
If you were to become incapacitated...

What would happen to you?

- Where would you want to live?
- Who would take care of you?
  - Do your loved ones have the time or ability to help you?
  - Have you thought through the expenses of having to pay for assistance or care?

What would happen to your assets?

- Who would manage your assets?
- How would they be managed?
  - Do your loved ones have the financial acumen to handle your assets?
  - Would he or she know who to rely on?
Documents everyone should consider

Living Will or Healthcare Directive:
- Provides statement of intent for healthcare

Medical Power of Attorney (Health Care Proxy):
- Designate person(s) to make medical decisions if you are incapacitated
- Authorize person(s) to have access to protected medical records under HIPAA

Accessibility:
- Make sure your agents have copies of your Living Will and Health Care Proxy and that they know where the originals are stored
- Originals should be kept someplace safe yet accessible – such as a safety deposit box or with your attorney
Documents everyone should consider

Durable Power of Attorney for financial purposes:

- Authorize someone to handle your financial affairs if you are disabled
- Agent can act in the manner authorized with respect to assets specified
- May become effective immediately or upon a triggering event
- Avoids legal proceedings
- Consider the following powers:
  - Power to make gifts
  - Power to change beneficiary designations
  - Power to transfer assets to trust
Documents everyone should consider

Last Will and Testament:

- Directs distribution of your assets upon your death
- Common elements:
  - Name a personal representative or executor
  - Nominate a guardian for minor children
  - Consider how your beneficiaries receive your property – outright or in trust
- Include federal and state tax planning provisions
- If you do not have a Will, your estate will be subject to intestacy
- Assets passing by Will are subject to probate
- State-specific rules as to creation and execution
Documents everyone should consider

Revocable Trust:

- Commonly provides for the disposition of assets both during lifetime and at death
- Provides continuity of management
- When properly funded, avoids probate
- State-specific rules as to creation and execution
- Common elements:
  - The parties – Grantor, Trustee, and Beneficiary
  - Can be amended or revoked during lifetime
Estate tax planning

Should tax planning be part of your estate plan?

If your taxable estate exceeds the estate tax exemption, you should consider tax planning:

- In 2016, the federal estate tax exemption is $5,450,000
- In addition to federal estate tax, your state may impose a separate estate or inheritance tax
- You should consider not only the current value of your estate, but any anticipated growth in your estate
- Also consider your beneficiary’s tax situation
Estate tax planning considerations
Estate tax overview

- Federal estate tax exemption set at $5,000,000 per taxpayer permanently
  - Indexed for inflation annually ($5,450,000 in 2016)
- Estate, gift and GST tax exemptions are equal
- Estate and gift tax rate is 40%
- Portability has been made permanent
Planning before “Portability”

First Death

- **Wife** $3,000,000
  - Credit Shelter Trust $3,000,000
- **Joint** $2,000,000
  - Marital Gift or Trust $0
- **Husband** $3,000,000
  - Husband’s Assets $5,000,000
Planning with “Portability”

First Death

- **Wife**: $3,000,000
- **Joint**: $2,000,000
- **Husband**: $3,000,000

- **Credit Shelter Trust**: $0
- **Marital Gift or Trust**: $0
- **Husband’s Assets**: $8,000,000
“Portability” allows married couples to combine federal estate tax exemptions

For couples whose combined federal taxable estates are less than $10.9 million, portability can

- Simplify planning (e.g., everything to surviving spouse)
- Provide greater flexibility for married couples with substantial retirement plan accumulations
- Alleviate the need to balance asset ownership between spouses

Formal election must be made to preserve deceased spouse’s unused exemption amount
On second thought...

- If the surviving spouse remarries, the “portable” amount may be impacted.
- Credit Shelter Trust planning allows appreciation of trust property to avoid estate taxation.
- Most states do not offer portability.
- The Generation Skipping Tax exemption is not portable.
Disclaimer planning may offer flexibility

- A “disclaimer” plan provides that assets pass to your surviving spouse.
- If your surviving spouse “disclaims,” the assets will pass to the next in line beneficiary under your estate plan
  - Can be your Credit Shelter Trust or non-spousal beneficiaries

Rules for disclaimer:
- Must be in writing, irrevocable and unqualified;
- Made within nine months of when interest is created;
- Must be made before receiving any benefit from the disclaimed asset; and
- Disclaimed interest passes without any direction from the disclaiming party.
Avoiding the most common estate planning mistakes
Asset ownership

Asset titling will determine how assets flow through an estate plan.

- Individually titled assets and assets titled as tenants-in-common will pass by will
- Assets with a TOD or POD designation will pass to the designated beneficiary
- Jointly held assets (with right of survivorship or tenants by the entirety) will pass to the joint property holder
- Assets titled to a trust will pass per the terms of the trust
- If a revocable trust is part of your estate planning, consider whether you should retitle your non-retirement assets to that trust
Your choice of beneficiary can have unintended estate and income tax consequences

- “Estate” as beneficiary
  - Subjects assets to probate
  - Accelerated distribution of retirement assets
- Not naming a contingent beneficiary
- “My Children” on retirement assets
We know that assets titled in joint names will automatically pass to the joint property holder – but titling as such can have unintended consequences:

- **Gift tax:**
  - At the time of the transfer
  - If the joint property holder distributes to others
- **Estate tax:**
  - Asset is not available to utilize for payment
- **Creditor Issues**
Outdated plan

Be sure to review your plan regularly to be sure that it still meets your objectives

- Your plan may need to be amended if there have been changes in:
  - Your goals or objectives
  - Your personal situation
  - Your net worth
  - Tax or other laws
Incapacity planning

Failing to plan for incapacity can cost your loved ones time and cause difficulty

- Durable Powers of Attorney
  - Ability to disclaim
  - Ability to make gifts
  - Retirement plan assets
- Health Care Powers of Attorney
  - HIPAA
- Funding Revocable Trusts
Establishing a trust to preserve your wealth and values
Do any of these situations apply?

- Beneficiary works in a high liability profession (e.g., doctor, lawyer, business owner)
- Beneficiary is in a troubled marriage
- Beneficiary is unable to handle his or her own financial affairs
- Desire to promote or restrict a certain type of behavior
- Desire to promote social responsibility through charitable endeavors
- Desire to protect legacy and to pass assets to future generations tax efficiently
A Trust is:
- A trust is a separate legal entity created under state law

A Trust can:
- Allow you to communicate your values or wishes
- Be of flexible duration – holding assets for lifetime or a period of years
- Set parameters regarding distributions of income and principal
- Be a stand-alone document or established under your Will or Revocable Trust
- Be funded during your lifetime or after your death
- Be revocable or irrevocable during your lifetime
- Be irrevocable upon your death
Almost all states authorize the creator to include a “spendthrift clause” which prevents trust assets from being voluntarily or involuntarily transferred to any creditor.

Potential creditor claims are an important consideration for anyone who is inheriting assets – especially for loved ones who:

- Are considering divorce or who have divorced
- Have trouble managing money
- Have prolonged or permanent disabilities
- May be subject to professional liability
- Have had credit issues (e.g., bankruptcy, foreclosure, short sale)
- Small business owners who may have personal liability for business debts or issues with business partners
Protection of legacy for loved ones

- Provide for a “de facto” estate plan for beneficiary
  - If beneficiary passes away without an estate plan in place
  - “Substitute” for prenuptial agreement
- Ensure your assets pass to the next generation at death of a beneficiary
  - Remove beneficiary’s ability to direct funds to non-familial persons
- Can provide continuation of trust for generations to come
  - Generation-Skipping Transfer Tax ("GST") Trust
- Pass down monetary and social ideals
  - Educational priority
  - Professional endeavors
  - Incentivize beneficiary to remain productive
  - Encourage certain types of behaviors
Protection of legacy for charitable goals

- Provide support for individual beneficiary and ensure ultimate distribution to chosen charitable organizations
- Can promote philanthropic behavior in your beneficiaries
- Consider a Charitable Remainder Trust (a “CRT”) if an estate tax deduction is needed
- Consider using tax-deferred retirement assets to fund the gift to charity
Consider the trust terms

How do you handle trust income?
- Mandatory income distributions
- Trustee discretion to make distributions
- Beneficiary’s right to withdraw
- Consider how RMDs are handled

How do you handle trust principal?
- Discretionary distributions typically for health, education, maintenance and/or support
- Funding for business, profession or down payment on home
- Give or mandate withdrawal rights at various ages or upon occurrence of life events

How important is flexibility?
- Potential distributions for further descendants (shift income)
- Current beneficiary may be given right to change remainder beneficiaries of trust
Choosing a Trustee

Can be individual(s), bank or trust company, or combination

**Considerations when naming individual Trustee:**
- Personal relationship (spouse, child, friend)
- Trustworthiness, reliability, and financial acumen
- Willingness to serve
- Bond or no bond

**Considerations when naming corporate Trustee:**
- Professional nature of relationship
- Trustworthiness, reliability, and financial acumen
- Trust size and nature of assets
- Institutional regulation and liability coverage
The Individual Advisory Services offering
TIAA Individual Advisory Services offers personalized advice* to help eligible employees make sound decisions that directly address your goals and financial situation.

- A holistic view of your financial picture, with solutions chosen from a broad spectrum of alternatives that seek to increase the likelihood of achieving goals
- Providing education and guidance via personalized recommendations
- A realistic assessment of current savings and investment strategies

*Through Ibbotson Associates tool.

To be assigned to an Advisor, call:
<Director>,
Wealth Management Director
Telephone <Phone Number>
A new level of partnership, an extraordinary level of service

We stand ready to help you pursue your goals, by providing:

- Personal service
- Comprehensive retirement plan advice*
- Customized solutions can include those drawn from a broad range of TIAA and non-TIAA products and services

*Through Ibbotson Associates tool.
As a Individual Advisory Services client, you have access to a personal advisory relationship to help you address your financial needs as you plan for – and live well in – retirement:

- Focused, stable organization
- Dedicated team committed to working in your best, long-term financial interest
- Highly customized and holistic advice
- Disciplined and defined retirement planning and investment philosophy
The cornerstone of your financial plan is the Retirement Review

Three key questions:

- Do I have enough to retire?
- What is the right asset allocation for me?
- How much should I draw down each year across all my savings?

The comprehensive retirement review:

- Considers all assets targeted for retirement income
- Provides customized analysis of a client’s unique circumstances
Professionals partner to create a comprehensive financial team

We put it all together for you

- At the center of our service model is you, served by your Advisory Team and dedicated wealth planning specialists in financial, estate and tax planning concerns, investment management, insurance, personal trust, and charitable planning.

- Under the direction of your Advisory Team, you will receive an in-depth analysis of your personal financial situation, along with guidance in executing plans that seek to achieve your goals.

TIAA-CREF Individual & Institutional Services, LLC, and its affiliates do not offer tax or legal advice services. Individuals should consult with a qualified independent tax advisor, CPA and/or attorney for specific advice based on the individual’s personal circumstances.
This presentation is for general informational purposes only. It is not intended to be used, and cannot be used, as a substitute for specific individualized legal or tax advice. Additionally, any tax information provided is not intended to be used and cannot be used by any taxpayer for the purpose of avoiding tax penalties. Tax and other laws are subject to change, either prospectively or retroactively. Individuals should consult with a qualified independent tax advisor, CPA and/or attorney for specific advice based on the individual’s personal circumstances. Examples included in this presentation, if any, are hypothetical and for illustrative purposes only.

Investment, insurance and annuity products are not FDIC insured, are not bank guaranteed, are not bank deposits, are not insured by any federal government agency, are not a condition to any banking service or activity, and may lose value.

Advisory services provided through Advice and Planning Services, a division of TIAA-CREF Individual & Institutional Services, LLC, a Registered Investment Adviser. TIAA-CREF Trust Company, FSB provides investment management and trust services.

tiaa.org

© 2015 Teachers Insurance and Annuity Association-College Retirement Equities Fund (TIAA-CREF), 730 Third Avenue, New York, NY 10017

C22162 (3/15)