

# Transferring Wealth

## *Creating a Legacy Through Estate Planning*

### **EVERYONE SHOULD HAVE AN ESTATE PLAN**

An estate consists of all the assets you leave behind when you die. If not planned for, financial burdens, transfer of asset issues, and care of minors must be addressed by those left behind.

In distributing your estate, you can choose between heirs, charity or paying estate taxes. An estate plan allows you to direct how and to whom your accumulated assets are distributed after your death. A sound plan should be designed to accomplish personal, family and charitable objectives.

### **THE ESTATE PLANNING PROCESS**

Estate planning covers many complex areas including wills, trusts, insurance, accounting and taxes.

#### **1) Carefully choose your estate planning team —**

Engage the efforts and expertise of your CPA, attorney, trust officer, and RBC Wealth Management® Financial Advisor.

#### **2) Gather information —** Complete a questionnaire stating your assets and liabilities, designated heirs, and desired goals and objectives.

#### **3) Analyze the data to determine strategies —** Help your team of advisors understand more about you and your financial objectives through evaluation of your financial information and personal objectives.

#### **4) Decide and implement solutions —** Your estate planning team provides strategies and identifies solutions for your review and consideration. Choose the appropriate plan, execute documents and review investments regularly.

#### **5) Review the plan periodically —** Make sure that major life events, such as changes in marital status, beneficiaries or net worth, are reflected in your estate plan.

### **THE TAXING SITUATION**

Provisions of the Economic Growth and Tax Relief Act of 2001 (EGTRRA) gradually increased the Applicable Exclusion Amount (estate tax exemption) and gradually reduced the estate tax rate through 2009 and replaced the estate tax with a carryover basis system in 2010. Prior to 2010, in general, the basis of estate property was its fair market value on the date of the decedent's death.

The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Tax Relief Act of 2010), reinstated the estate tax at a maximum rate of 35% with an estate tax exemption of \$5 million for decedents dying after December 31, 2009 and before January 1, 2013.

Because the Tax Relief Act of 2010 was not passed until December 17, 2010, the Act provided the executor of the estate to elect out of the estate tax in 2010 imposed by the Tax Relief Act of 2010 and use the modified carryover basis rules that were in place prior to that legislation. If the executor elects out of the estate tax in 2010, the basis of estate property is the lesser of the asset's fair market value on the date of death or the decedent's (carryover) basis. However, two special basis adjustments may apply. The first adjustment allows estates to exempt up to \$1.3 million of appreciation, or gain, on property that is passed to any beneficiary. The second adjustment allows estates to exempt up to \$3 million of appreciation, or gain, on property that passes to a surviving spouse.

The Tax Relief Act of 2010 also allows for the portability of the estate tax exemption for 2011 and 2012. The surviving spouse may now use any estate tax exemption that was not used by his or her predeceased spouse. This, however, is limited to the unused estate tax exemption of only the last spouse to die. This allows those individuals who have not



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created trusts to minimize estate taxes at the death of the first spouse, to not lose the estate tax exemption of the first spouse.

In 2013, under current law, the estate tax exemption will revert back to \$1 million with a maximum rate of 55% according to the law prior to EGTTRA. The chart below shows the changes enacted under EGTTRA and the Tax Relief Act of 2010.

### WHERE THERE'S A WILL...

You've worked hard to accumulate and protect your wealth. You deserve the right to determine how your assets are distributed after your death. The most basic component of a successful estate plan is a properly drafted will. A will allows you to distribute property and assets to beneficiaries of your choosing. Property passing through your will is subject to probate.

Choosing an executor, also known as estate administrator or personal representative, is one of the most important estate planning decisions you will make. Your executor administers your estate and distributes your assets as you direct in your will. An executor can be an individual and/or a professional or corporate administrator, such as a bank trust department. Before choosing someone to serve as your executor, give serious consideration to how well he or she might be able to handle the duties and responsibilities of the job.

### ESTATE TAX AND GIFT TAX APPLICABLE EXCLUSION AMOUNTS

Year	Estate Tax Exemption	Estate Tax Rate	Generation-Skipping Tax (GST) Exemption	Gift Tax Lifetime Exemption	Gift Tax Annual Exclusion	Annual Gift Tax Exclusion (Non-Citizen Spouse)
2009	\$3,500,000	45%	\$3,500,000	\$1,000,000	\$13,000	\$133,000
2010**	\$5,000,000	35%	\$5,000,000 (0% GST tax rate)	\$1,000,000	\$13,000	\$134,000
2011-2012	\$5,000,000	35%	\$5,000,000	\$5,000,000	\$13,000*	\$136,000*
2013	\$1,000,000	55%	\$1,120,000 *	\$1,000,000	TBD	TBD

*\*Indexed to inflation*

*\*\*If an executor elects out of the estate tax in 2010, the estate tax is replaced with a modified carry-over basis under EGTTRA.*

### THE PROBATE PROCESS

Probate is a procedure that transfers property or assets from the estate of someone who has died to the proper beneficiaries. Probate ensures that all estate taxes and liabilities of the deceased are paid.

Probate expenses may range from one or two percent to four or five percent of the estate.

Probate can also be time-consuming if there are complications. Therefore, many individuals plan their estate to avoid probate and save their family members a good deal of money, time and frustration.

### TRUSTS, PROPERTY OWNERSHIP, AND BENEFICIARY DESIGNATIONS

Because the probate process can be time consuming, expensive and subject to public scrutiny (when a will is probated, it becomes public record), many people try to avoid the probate process entirely. Here are just a few ways to bypass the probate process:

**Creation of a Trust** — A trust agreement is a legally binding document, prepared by an attorney, which creates a trust and establishes the rules that control the trust's management.

While trusts are not for everyone, a trust can provide a variety of options and flexibility, including control, privacy, continuity, and potential tax savings.

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Here are some of the most common types of trusts:

- Revocable Living Trust
- Family Trust
- Marital Trust
- Irrevocable Trust
- Charitable Trusts (Charitable Remainder Trust and Charitable Lead Trust)
- Irrevocable Life Insurance Trust (ILIT)

Two popular planning strategies utilizing trusts:

- **Revocable Living Trust and “Pour-Over” Will** — Establish a revocable living trust during your lifetime and register all of your assets in the name of the trust. These assets avoid probate and can be managed by the Trustee you choose in the event you become incapacitated during your lifetime. In your will, you can direct that any assets not held in your revocable living trust be “poured over” into the trust at your death to be managed along with the other trust assets.
- **Marital Trust/Family Trust Plan** — The purpose of a family trust plan (also known as a credit shelter trust, an exemption equivalent trust, a bypass trust or a residuary trust) is to reduce estate taxes assessed by the IRS and often state estate taxes. The exemption equivalent amount funds the family trust. The remaining assets fund a marital trust or pass to the spouse outright. Any married person may leave an unlimited amount of assets to their spouse (assuming they are a U.S. citizen) at death, so the result of using this plan is no federal estate tax on the first death and a reduced taxable estate at the second death.

**Property Ownership** — Certain forms of property ownership designation can assist in avoiding the probate process.

- **Joint Ownership With Rights of Survivorship** — Property you and your spouse own as joint tenants with rights of survivorship passes to your spouse outside of probate at your death.
- **Community Property** — If your state has a community property law, you and your spouse each own a one-half interest in assets acquired during your marriage. However, community property does not pass automatically to your spouse. When one spouse dies, the survivor continues owning his/her half of the assets. The deceased spouse needs a will or trust to transfer his or her community property share.

**Beneficiary Designations** — Life insurance policy proceeds, qualified retirement plan benefits, individual retirement accounts and annuities can go directly to beneficiaries instead of through probate. Check to make sure your beneficiary designations are current and reflect your intentions.

### GIVING IT AWAY

You don't have to wait until your death to make tax-saving transfers. In fact, a well-planned program of lifetime gifts to family, friends, and charity can save estate and gift taxes, preserve more of your assets for your family and other heirs, and ensure your property goes to the people you want to have it.

**Annual Gift Tax Exclusion** — Individuals may give any number of people up to \$13,000 each in cash or assets (\$26,000 if your spouse joins in making the gift) without triggering gift taxes.

**Lifetime Gift Tax Exemption** — You may choose to give assets or cash to a family member or other heirs in one lump sum either outright or through an irrevocable trust. The Tax Relief Act of 2010 increased the lifetime gift tax exemption amount to \$5 million for both 2011 and 2012, and it re-unified the amount with the estate tax exemption. Consequently, if an

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individual utilizes part or all of their \$5 million gift tax exemption during their lifetime, this will reduce the estate tax exemption that is available at death. In 2013, under current law, the estate and gift tax exemption amount reverts back to the rules prior to EGTTRA with an amount of \$1 million.

***Exclusions for Medical and Tuition Payments*** — Current law allows you an unlimited exclusion for certain tuition and medical payments made on behalf of others. To qualify for this exclusion, you must make the payments directly to the educational institution or medical facility. Payments for medical insurance also qualify for the medical exclusion. Payments for dormitory fees, books, supplies and similar school expenses do not qualify for the tuition exclusion.

***Giving to Minors*** — Transferring assets to minors can help to ensure your children and grandchildren have the financial resources needed to go to college, buy their first home, start a business, or begin their own investment and estate planning. If you are uncomfortable giving large sums of cash or assets to them outright, some options include a 529 College Savings Plan, IRC Section 2503 (c) Trusts, UTMA/UGMA accounts, or in some cases through the funding of an irrevocable trust.

***Generation-skipping Transfers*** — Generation-skipping transfers are transfers directly from you to a person two or more generations younger than you (such as a grandchild), or to an irrevocable trust established for their benefit. The generation-skipping transfer (GST) tax applies to both direct skip transfers, indirect transfers, and distributions made from a trust.

***Charitable Giving*** — Charitable gifts can be made either outright or in a charitable trust, such as a charitable remainder trust. Charitable giving can provide income, gift, and estate tax savings as well as help further the work of organizations you believe in.

### **WHEN TO REVIEW YOUR ESTATE PLAN**

Personal, family and legislative changes can make yesterday's well-devised estate plan inadequate today. You should be aware of life events that may signal the need for revision:

- Substantial increase or decrease in your estate
- Marriages
- Births
- Divorces
- Deaths
- Moves out of state
- Business changes
- Tax law changes
- Retirement

To discuss appropriate strategies for transferring your wealth, contact your Financial Advisor.

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