



2013—It's a New World for Estate Planning

Even if the new gift and estate tax exemption of \$5,250,000 per person sounds large enough to eliminate any concerns you may have about paying estate tax, there are still a lot of good reasons to undertake estate planning. Here are a few:

- Family limited partnerships can be used for income tax savings. With the new 39.6% income tax bracket and the additional 3.8% Medicare surtax that applies to investment income over certain income thresholds, a family limited partnership can be a good way to keep the family as a whole out of the high levels of income that trigger those taxes.
- The large gift exemption may be big enough to permit the transfer an entire business to successor family members all at once, eliminating the need for multiple years of appraisals and multiple gift tax returns. Moreover, there may no longer be a need to take risky discounts that invite IRS scrutiny on those gifts.
- Don't be fooled into thinking there is no need to plan for business succession, just because the threat of estate tax may no longer be driving that process for your small business. Heirs may be caught unawares and not as well prepared to take over the responsibility of running the business if the first time they are given a stake in it is at the death of the owner parent. This may greatly diminish the chances of the business surviving into the next generation.
- Once partly used as gift leveraging devices, charitable remainder trusts are still attractive as a means of avoiding capital gains tax while generating a charitable contribution deduction and a lifelong income stream to the donor and/or the donor's loved ones.
- If you think the large federal estate exemption amount means you will no longer need a trust agreement to manage and allocate your assets, think again. Revocable living trusts perform many other functions: providing privacy, avoiding Probate, managing your assets if you become mentally or physically unable to do so, and directing assets to beneficiaries in a variety of ways when those beneficiaries' circumstances change and you are no longer there to help them. Trusts often encourage professional management of assets and more effective asset allocation among investments, as compared to having assets scattered in many places.
- In second marriage situations, trusts will continue to play an important role to ensure that assets go to a decedent's children and not to a surviving spouse who will then direct them away from those children.
- Medicaid planning, with or without the use of trusts for that planning, will continue to be desirable for some families.
- Asset protection planning, using asset protection trusts, will continue and probably expand now that Ohio law is more favorable to this. Protecting assets from creditors and predators has appeal to many individuals whose professions tend to make them vulnerable.
- Just because the gift and estate exemption is generous at the moment, there is no guarantee it will stay that way. Remember, the law may change again.