

Legacies

Spring 2006

Tax, Estate and Charitable Planned Giving Opportunities

Planning: To Assure Peace of Mind

A properly drafted estate plan can make all the difference

Not only are death and taxes inevitable – few of us enjoy planning for them! But preparation in these areas allows us to be more efficient stewards of our material blessings. For couples who have remarried or are considering doing so, it gets a bit more complicated.

Dallas probate and tax attorney Ira Silverman specializes in wills and estate planning. He's seen many cases of poorly drafted or non-existent wills and the confusion they can cause. Blended families are a fact of life. They can be a challenge for everyone. The first step is to communicate what your wishes are.

Couples contemplating marriage don't always view pre-nuptial agreements as romantic. But good marriages thrive on good communication. A pre-nuptial agreement can be the first exercise in creating effective dialogue. Mr. Silverman puts them high on prospective newlyweds' to-do lists. He suggests that couples ask themselves the following questions:

1. Should I consider a pre-nuptial agreement?
2. Do I need to change my will?
3. Could my Social Security benefits be affected?



Ira Silverman

4. Do I need to know about separate and community property?

The answer to each question is “yes.” For example, “Remarriage by a widowed party could reduce his or her Social Security benefits,” states Silverman.

Mr. Silverman goes on to say that, in Texas, marriage or remarriage does not void an existing will. His “Top Ten Ways to Generate Anger, Hard Feelings, Fighting, Resentment,

Disappointment and Bitterness After You Are Gone” include “Do not make a will” as the number one culprit. Getting married is a joyful occasion. Reviewing your will or creating one beforehand may not be common, or part of your traditions, but will ensure that both bride and groom are in agreement about how their assets will be distributed when the time comes.

The Dallas Jewish Community Foundation website has an article about the importance of a written will: “Will Makers: Are You in the 42%?”

“A survey conducted last year indicated that only 42% of adult Americans had a will – a

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The Appeal of Estate Giving

Without question, the largest number of “planned gifts” received by most charities in the United States come through bequests – gifts from people’s estates. For the Dallas Jewish Community Foundation and for our partner organizations in the Dallas Jewish Community, bequests play an ever more important role in ensuring our collective ability to make a difference. Why do so many of us choose to make important gifts through wills, trusts and beneficiary designations?

■ *It’s the right time.*

“I can make a gift that will truly make a difference, and my financial security won’t be an issue.”

■ *It’s the right thing to do.*

“I want to leave a legacy. Perhaps my bequest can make the world a better place.”

■ *It’s easy to do.* Adding a bequest to the Dallas Jewish Community Foundation is simple when you make or revise your will. Easier still is making the Foundation beneficiary of your life insurance, IRA, brokerage account, savings account or CD.

■ *It’s economical.*

Bequests to the Dallas Jewish Community Foundation may save income taxes and “death taxes” for your family, especially if you have a retirement account.

IRAs, 401(k)s, 403(b)s and other retirement accounts are subject to income tax at rates as high as 35%, even if estate taxes are not an issue. Only Roth IRAs pass free of income tax.

Many friends of the Dallas Jewish Community Foundation have discovered that these same retirement accounts that will cause income tax problems for heirs make excellent bequests to our future. The Foundation receives the full amount, with no loss to taxes. It’s even possible to reduce the income tax through a gift that is divided between the Foundation and family members. For example:

■ *Charitable Remainder Trusts*

– Retirement plan assets can be used to fund a trust that will pay income for life or a term of years to family members. The full value is available to fund the trust, without any loss to income



taxes. When the trust ends, the Dallas Jewish Community Foundation receives the assets remaining in the account. An estate tax charitable deduction is available for the value of the Foundation’s right to receive the funds in the future.

■ *Charitable Gift Annuities*

– With a gift annuity, the Dallas Jewish Community Foundation receives retirement funds in return for a promise to pay income for life to one or two beneficiaries. Estate tax savings may also be available.

We would be delighted to talk to you and your Professional Advisors about how a bequest of retirement plan assets can save income taxes and, if applicable, estate taxes. Please feel free to call our office for more information at (214) 615-9351. You may also visit us online at www.djcf.org and request information at info@djcf.org.

Yours, Mine and Ours

Planning a wedding can be hectic at any age, but when the marriage involves a bride and groom with children (and grandchildren) from previous marriages, it can become even more complicated. Several options are available for those who want to benefit both their new spouse and other family members:

Trusts – Prospective newlyweds generally want the surviving spouse to be provided for comfortably, but would then wish to have assets pass to their own children or grandchildren. With a QTIP trust, the surviving spouse receives all income for life. At the survivor's death, the assets in the trust are distributed as directed in the trust. The unlimited estate tax marital deduction is available for the estate of the first spouse to die.

Prenuptial agreements – These are contracts entered

into by couples prior to the wedding. Each partner should be represented by his or her own attorney, to protect each party's best interests. To be valid, the bride and groom should be fully informed of the assets owned by the other and under no duress.

Life insurance – An insurance policy owned by the children can “replace” assets left to the new spouse. A parent can make outright annual gifts to the children to pay the premiums.

Another option is to use a special life insurance trust that will distribute the proceeds to family members at the parent's death.

Will or living trust – A new marriage may void an existing will in some states. Although remarriage in Texas does not affect previous wills, both spouses should still have new wills or living trusts drafted. Every state has laws

that permit a spouse to elect to receive a minimum amount, regardless of what the will provides.

Retirement plan waivers – Generally, 401(k) and other qualified retirement plan death benefits pass to the named beneficiary, regardless of what's in the will.

However, a surviving spouse is entitled to the assets in the retirement plans, even if other family members are named as death beneficiaries, unless a waiver has been signed. This does not apply to IRAs. To be valid, the waiver must be signed after the couple is married.

Seniors planning to remarry may not have to worry about registering for china, but they should include a visit to their attorneys among the preparations to complete prior to tying the knot.

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troubling statistic that should beg the question: ‘What about my own plans?’

Serious estate planning often gets put off until some ‘life event,’ such as marriage or divorce, the birth of a child or grandchild, or a death or illness in the family – even an upcoming vacation abroad. In many cases, as the survey shows, planning may be put off forever.” (To view the complete article, please go to www.djcf.org.)

“Joint meetings with all relatives are essential in estate planning,” states Dan Prescott, owner of Prescott Benefit Services LP, in Dallas. “There are a number of local advisors and experts ready to help,” he says. “I am one of many.”

Attorney David Adler of Dallas is another expert in



Dan Prescott

estate planning. He explains that it is important for remarried spouses to communicate how they want to take care of each other in their estate planning documents. Mr. Adler notes that QTIPs (qualified terminable interest property trusts), frequently used for estate tax marital deduction purposes, may be problematic in a blended family. He suggests that an alternative way to provide for



David Adler

your children from a previous marriage is through life insurance.

The Dallas Jewish Community Foundation has a number of helpful booklets on the subject of wills. Please visit our website at www.djcf.org to request free copies, or call us at (214) 615-9351. And as always, consult with your advisors before proceeding on a course of action.

Can You Use Help in Financial Planning?

To help you determine the areas in which you need financial planning, we have a new booklet – *Rewards of Financial Planning*. We urge you to use the enclosed reply card to send for your complimentary copy.

