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ESTATE PLANNING NOT JUST FOR DYING

Your estate plan can be more useful than directing who gets what when you die. In fact, proper estate planning may be useful to minimize income taxes, to shield family wealth from liability, to engage in philanthropy, to build a safety net for yourself and for future generations and a host of other benefits.

Let's review an example or two that demonstrates how estate planning can make a difference in a family's life. I'm going to create a hypothetical couple, David and Susan. They have a daughter, Amanda, who has just graduated from dental school and needs \$100,000 to start her new practice. David and Susan want to help Amanda start her new practice.

Assume that David and Susan have a number of income producing properties and businesses. Like most similarly situated couples, David and Susan find themselves in a high-income tax bracket. In order for David and Susan to transfer \$100,000 of earned income from their properties to Amanda, they will have to earn \$150,000 gross to arrive at the net figure that Amanda needs. Further, David and Susan can only gift \$24,000 tax free to Amanda. So what other choices might David and Susan have?

Assume that David owns a life insurance policy on his life with \$250,000 of cash surrender value. Assuming he doesn't need to tap the cash surrender value but wants to give Susan future access, David transfers the policy into an irrevocable life insurance trust (ILIT) that names Susan and Amanda as beneficiaries. The ILIT provides for a borrowing power, so the trustee for the ILIT borrows the \$100,000 from the policy and loans it to Amanda.

In essence, this is an income tax free transfer to accomplish David, Susan's and Amanda's goals with the added benefit of eliminating the insurance policy from David's estate for estate tax purposes. There are gift

issues on the structure of the transfer to the ILIT, but these are not insurmountable problems.

Another potential estate planning solution is to transfer a portion of David and Susan's income producing properties into a family partnership entity. Partnership interests are then indirectly transferred to Amanda. The transfer to Amanda may be accomplished by structuring a sale to an intentionally defective grantor trust (IDGT) benefiting Amanda. Because it is a grantor trust to David, no capital gain on the sale of the partnership interests is recognized by David.

The income earned on the properties is then distributed from the IDGT to Amanda to allow her the ability to start her dental practice. Lower income tax brackets may be accomplished on this transfer depending upon various circumstances.

The partnership interests that Amanda has received are protected from a divorcing spouse or from a claim of a creditor, such as might be the case if Amanda is ever sued for malpractice.

David and Susan have also accomplished estate tax benefits by transferring highly appreciating properties out of their estates at a discount to Susan. So long as David and Susan maintain the general partnership/managerial authority over the partnership, they can control the income tax flow from the entity.

There are a number of other techniques that may be used. As you can see, estate planning isn't only for the contemplation of death. Proper planning provides flexibility to various dynamic family circumstances.