Estate Planning and Charitable Giving Under Current Law

Stacey Prince-Troutman
sprince@broadandcassel.com
Overview

- **Estate Planning**
  - Perennial Estate Planning Documents
  - Common Misconceptions in Estate Planning
  - Recent Developments in Estate Planning

- **Charitable Giving**
  - Perennial Charitable Giving Options
  - Recent Developments in Charitable Planning
Estate Planning
Perennial
Estate Planning Documents

- Durable Power of Attorney
- Health Care Directives
- Last Will and Testament
- Revocable Living Trust
Durable Power of Attorney

- Legal document that allows another person to conduct your affairs when you are unable to do so.
- Depending on state law, may be effective immediately or "spring" into effect upon determination of incapacity.
Health Care Directive

- Allows another person to make health care decisions for you and gives medical professionals permission to perform certain specified procedures if necessary.

- Common Examples:
  - Living Will
  - Health Care Surrogate
Last Will and Testament

- A will is a legal document that provides instructions on how your assets are to be distributed upon your death.

Decisions made in Will:
- Beneficiaries
- Personal Representative/Executor
- Guardian of minor children
- May establish testamentary trust(s) for one or more beneficiaries
Revocable Living Trust

- Goals Accomplished:
  - Incapacity planning
  - Probate avoidance
  - Control after death
  - Tax planning

- Can be amended/changed
- Private (not generally filed with court)
Misconceptions/
Faulty Reasoning in Estate Planning

• “You should avoid probate or else your estate will be subject to a 40% estate tax.”

• “My estate will not go into probate because I have a revocable trust.”

• “My accountant told me not to give away more than $14,000 per year or else I will have to pay a gift tax.”

• “I am adding my child as a joint owner of my assets to avoid probate.”
Recent Developments in Estate Planning

- Digital Assets (Changes in State Law)
- Increased Federal Exemption Amount
- Portability Election for Spouses
Digital Assets

- State laws have been created to recognize digital assets and property rights related to digital assets.

- Digital assets are items of information created, generated, sent, communicated, received, or stored by electronic means on a system for the delivery of digital information or on a digital device.

- Create inventory of digital assets and passwords; back-up files; accounts with multiple users.

- Grant power of access in Durable Power of Attorney; Last Will and Testament; and Trust.
Federal Exemption Amount

- Federal Exemptions:
  - Federal estate tax & generation skipping transfer tax exemptions: $5,490,000.00
  - Federal gift tax annual exclusion: $14,000.00

- Portability Election
  - If decedent survived by spouse, an election can be made to allow for the deceased spouse’s remaining exemption to transfer to the surviving spouse
Charitable Giving
Perennial Charitable Giving Techniques

- Bequests in Will or Trust
- Gift of Retirement Accounts
- Life Insurance Policies
- Gift of Stock and Real Estate
- Charitable Trusts
- Recent Development
Charitable Giving

Bequests in Will or Trust

- The terms of your will or trust may provide for a distribution to charity.

- The bequest may be an outright gift of a specific sum or a gift of a percentage of the estate.

- Example of Language Leaving Bequest: I hereby give and bequeath ______________ Dollars ($_____________) to <name of charity>, whose address is ______________.

- Contact the Foundation of IAAP for information on including the charity as a beneficiary in your Will or Trust.
Charitable Giving

- **Beneficiary Designation**

  - Designation of Charity as Primary Beneficiary of Retirement Accounts/Life Insurance Policies

  - Contact your banker, investment advisor, or human resources person at work and request a "Change of Beneficiary" form for your annuity, IRA, company retirement plan, or life insurance policy.

  - Update the designation of the beneficiary to list the charity and its taxpayer identification number.

  - Contact the **Foundation of IAAP** for information on designating the charity as a beneficiary.
Charitable Giving

Gift of Financial Account (or Stock)
- Contact your banker or investment advisor and request a “Transfer on Death” or “Payable on Death” form.
- Complete the form to list charity as the primary beneficiary.

Gift of Real Estate by Deed
- Prepare deed in which the donor retains a life estate and the balance is transferred to charity.
Charitable Trusts

Charitable Lead Trust
- Donor creates trust in which the charity has an interest for a specified period of time, and after the end of the period, the remainder passes to designated non-beneficiaries.

Charitable Remainder Trust
- Donor creates trust in which one or more non-charitable beneficiaries have an interest for a specified period of time, and after the end of the period, the remainder passes to charity.
Recent Developments in Charitable Giving

- IRA Charitable Rollovers Made Permanent
  - The individual retirement account (IRA) charitable rollover allows individuals age 70 ½ or older to transfer up to $100,000 annually from an IRA to eligible charities on a tax-free basis.
  - The distribution is excluded from income, but counts toward the account owner’s required minimum distribution.
  - Because it is not included as income, there is no charitable deduction.
Advantages of Charitable Giving

- Establish legacy
  - Create endowment
  - Designate purpose or allow for general use

- Achieve favorable income or estate tax deductions
  - Turn tax liability into charitable gift

- May be done anonymously
The Foundation of IAAP
Contact Info

Tim Dykes
Development Manager
tim.dykes@iaap-hq.org