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Estate planning isn't just for those with large holdings

by Sherry Thompson

A person doesn't have to be approaching his retirement years with high net worth to think about estate planning.

"It's an ongoing process," said Kirk Swartzbaugh, marketer with Swartzbaugh Farber & Associates. "The earlier you do

needs to know the value of, Toberer said. Estate taxes are based on the fair market value of what a person owns at the time of his death.

It's probably the least understood tax, and it's the highest under the tax code, said Donald Mundy, president of Mundy Financial Services.

fied tax credits when they could have two."

The husband and wife each can pass \$675,000 to whomever they wish, free of estate taxes. If the husband dies first and everything goes to his wife, the opportunity is gone to save \$675,000 in assets from being taxed.

are heirs, is to take out a life insurance policy owned outside the estate for the amount the government is projected to take," he said.

The premium is gifted to the trust, which takes out the life insurance policy so it's not included in the valuation of the estate.

"When we talk about estate planning, ownership is the key," Abels said. "Ownership of what you have is what determines the taxes and who is taxed."

Toberer said the thing he always visits with people about is: What do you own and how do you own it?

If a house is owned in joint tenancy with right of survivorship it automatically goes to the surviving joint tenant, who doesn't have to be a spouse. Having two names with rights of survivorship can be a negative, depending on the size of the estate, Mundy said.

Joint ownership takes priority over a will, Abels said. A person could have a will leaving half of his estate to a child from a previous marriage, but if his mutual fund is in joint ownership with his second wife, as survivor she would have 100 percent control over the mutual fund and the child would not get any of that money.

"One of the very important things in estate planning that people typically don't understand is that life insurance is part of their estate," Abels said. "It is income tax free if it is properly owned and set up, but it's not free of estate taxes."

It's not unusual for a person to have assets under \$675,000 but also have a large life insurance policy of maybe \$500,000 or \$1 million. That value, added to his other assets, would put him over the unified tax credit limit.

"All of a sudden they will give up 30 to 40 percent to estate taxes, when it didn't have to be taxed at all because of ownership," Mundy said.

One way to handle it is to have an irrevocable life in-

surance trust own the policy, he said.

A trust is simply a document, Abels said. Until ownership of property is changed to the trust, it's unfunded.

"The key is that you have to get title or ownership of your assets into a trust during your lifetime," Toberer said.

A person can appoint himself as his own trustee and appoint successor trustees.

When an estate's value is less than the unified tax credit limit, a will can be drawn up to specify how property is to be distributed.

"If a person wants to say who gets his assets, he needs to have a will," Abels said. "A will says what you want to have happen to your car, your house, your checking account. To whom do you want it to go?"

If a person doesn't have his own will drafted, the state of Nebraska says how items will be distributed.

"Everybody has a will," Abels said. "They either know they have it or they don't know they have it. The state of Nebraska has laws for people who don't have a will."

A young couple may not have a lot of assets, but if they have children, they should plan for guardianship issues, Mundy said. How is the child going to be raised and how is his education going to be funded?

Other things a person needs to consider are beneficiaries of life insurance plans, ownership of retirement plans and stock options.

Stock options often are assignable, but not always, Toberer said. If a person owns a retirement account which hasn't been subject to income tax, the estate can end up paying not only estate taxes but also income taxes if a person dies while still owning it, he said.

Another way to reduce the value of an estate is for a husband and wife to each give \$10,000 to each child every year.

"Together they can give \$20,000 to each child," Swartzbaugh said. "That is another very effective way of reducing your estate — gifting to the kids or a trust for your kids."

Many people avoid estate planning because it's complicated.

"A lot of people are reluctant to address it because it seems complex," Mundy said, "but it doesn't have to be that difficult to explain."

He recommends that a person contact professionals for advice.

"It's very important that a team approach is taken," Mundy said. "We try to involve all the other advisers so all of them are in on what is going on. That helps break down the complexity."

The team can include a trust officer, accountant, attorney and financial planner.

"There are lots of different types of tools, and no one tool fits all," Mundy said. "You have to make sure whatever tools are employed fit that family's situation."

Some of what is done is for economic reasons, and some is based on sentimentality, Mundy said.

"Sometimes there should be a compromise of what people want," he said. "It may not be the most tax advantageous, but it may be what they really want."

Abels also recommends professional help rather than using do-it-yourself estate planning.

"It's just not something you do yourself," he said. "I highly recommend that people seek a financial counselor who is experienced in estate planning and visit with that person to discuss their affairs."



Swartzbaugh



Abels



Mundy

it, the easier it seems to be." "I like to refer to it as lifetime planning," said Jeff Toberer, shareholder in Stinson Mag & Fitzell's Omaha office.

The documents in the plan will change throughout the years. For a young couple, they might take care of guardianship of their children, while older couples might focus on asset distribution.

"You are planning for a contingency without having any idea when it might occur," Toberer said.

According to J.A. Abels, president of Family Estate Planning, everybody should have an estate plan. Many people think they don't need one unless they have a large estate, but that's not the case, he said.

"You need to determine what you want to pass, to whom and when," Abels said.

Estate planning involves setting up one's affairs to do that with minimal expenses, he said.

"I highly recommend that everybody go through what I call a financial fire drill: If I died yesterday, what is going to happen?" Abels said.

In addition to knowing what a person owns, he also

"Most people have no clue as to the extent of the estate tax," he said.

An estate of up to \$10,000 is taxed at 18 percent, and the rate moves up to 55 percent for estates of more than \$3 million.

The unified tax credit, however, allows a person to give assets while he is alive or to bequeath \$675,000 in assets. The amount of the unified tax credit will remain at that amount next year and will gradually increase until it reaches \$1 million in 2006.

With proper planning, a married couple can avoid any taxation on as much as \$1,350,000 of net worth.

The biggest mistake people make in estate planning is having what Abels calls "I love you" wills, with a husband leaving everything to his wife and vice versa.

That's OK if the total of their estate, along with any life insurance, is less than \$675,000.

"If that value is greater than \$675,000 this year and next year, there will be estate taxes," Abels said.

"When a couple has I love you wills and a \$2 million estate, they are taking advantage of only one of the uni-

"That situation is a \$220,000 estate tax mistake, and I see it all the time," Abels said.

"We try to explain to people that by using proper trusts, on at least the minimum of \$1,350,000 you can avoid estate taxes by making sure each person is getting full use of the unified tax credit," Mundy said.

A couple can set up trust documents, one for him and one for her, and have their children as the primary beneficiary rather than the spouse. The trust can be set up so that when one dies, the spouse has life use of the money in the trust. The children as beneficiaries would not receive any assets until the second person dies.

Many people who think they don't need estate planning really do, as they will see if they project the numbers.

"A lot of people, if you add everything up, are above \$675,000," Swartzbaugh said.

For assets that will be taxed, Swartzbaugh suggests funding the projected taxes with life insurance.

"One of the most popular techniques, assuming there

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