

# Wealth Planning Insights

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At some point in your life, the following issues may percolate and become items you and your family will need to address:

- Taxes
- Estate planning
- Asset allocation
- Insurance
- Education funding
- Liability management
- Financial and retirement planning
- Philanthropy

UBS can help you with each of these issues as they arise. Throughout the year, *Wealth Planning Insights* will touch on all of these topics. This month, we are focusing on estate planning and long term care.

## 10 Things You Should Know About Estate Planning

If you die intestate (without a Will), then the laws of the state you lived in determine how property is distributed.

### 1. Why do I need a Will?

A Will is the formal means of directing the distribution of your property upon your death. If you die intestate (without a Will), then the laws of the state you lived in determine how property is distributed. For example, in some states if you die intestate leaving a spouse and children, your spouse will receive ½ of your assets and your children will receive ½ of your assets. If you die testate (with a Will), you direct how your assets will be divided and distributed (perhaps including trusts for beneficiaries who are minors—see question 5 below). Moreover, you dictate who will administer and control your estate by appointing an Executor. Your Will can also designate whom you would like to serve as guardian of minor children.

### 2. Does my Will control the distribution of all of my property?

Not necessarily. Certain assets pass by operation of law based on the manner in which they are titled. For example, if you own an asset as "Joint Tenants With Rights of Survivorship" with your spouse, then upon your death, your spouse will automatically own 100% of the

Creating and funding a Revocable Trust, in addition to a Will, can help you avoid probate, maintain privacy and provide for ease of administration.

property. Assets which pass by beneficiary designation, like retirement plans, life insurance policies and annuities, will be distributed to the beneficiary you named on the applicable Beneficiary Designation Form. Note, though, that if you failed to name a beneficiary (for example if your primary beneficiary predeceased you and you did not name a contingent beneficiary), then it is possible that the governing documents of the plan or the account will direct the assets to your estate by default.

### **3. What is Probate?**

Probate is a judicial proceeding in which a court recognizes a Will as valid, appoints an individual or entity to administer a decedent's estate and, in some states, exercises ongoing supervision over that individual or entity until the administration is concluded. Probate is a state court proceeding. Each of the 50 states has laws controlling the administration and distribution of probate estates.

### **4. Why should I consider a Revocable Trust?**

A Revocable Trust (also known as a "Living Trust") is a trust agreement that becomes effective when you sign it, although you can change its terms at any time or revoke it completely during your life. The purpose of a Revocable Trust is to control the disposition of your property (1) in the event you become incapacitated and/or (2) upon your death. To the extent you title assets in your Revocable Trust during your lifetime, then those assets will not be subject to probate. Creating and funding a Revocable Trust can be especially helpful if you own real property in several states in order to avoid multiple probate proceedings. Also, unlike a Will, a Revocable Trust is not required to be filed with the court, so you can maintain privacy.

### **5. Are trusts just for the very rich?**

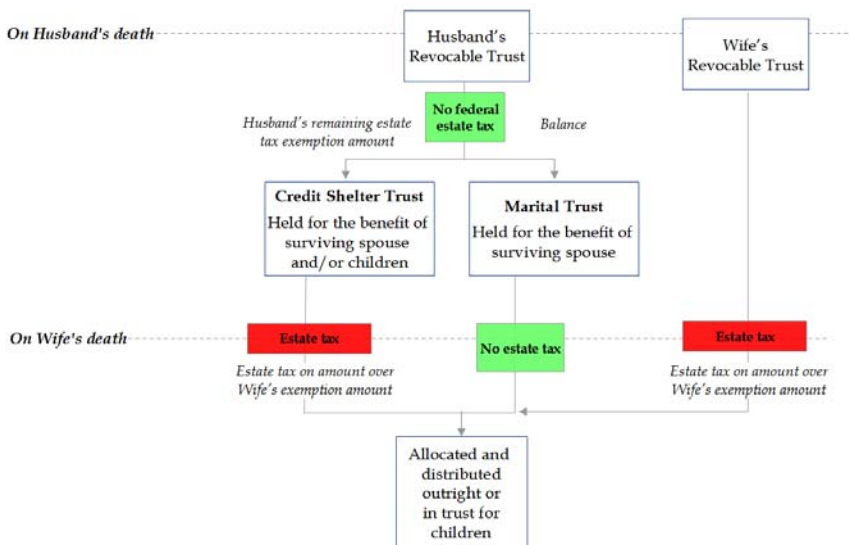
No! Trusts provide benefits other than merely passing down multi-generational wealth. You can leave assets to family members or other beneficiaries in trust in order to provide guidance, encourage good behavior and protect the money from creditors. For example, you might want to create a trust for your children so that they receive the income as it is earned but can access principal only for certain purposes (like health or education). Your trust can direct distributions from principal to celebrate events such as graduation from college or

provide seed money for a business or home purchase. Retention of the assets in trust may provide some protection from potential creditors of a beneficiary (like personal injury plaintiffs or an ex-spouse). You may choose to create a trust for your own spouse to ensure that the principal (or the trust assets not needed for support) are preserved and passed to your children. Additionally, you can use trusts to optimize use of estate tax exemptions.

## 6. How have the new tax laws affected my plan?

Under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Tax Act), each individual has a \$5 million estate, gift and generation-skipping transfer tax exemption for 2011 and 2012. In 2013, the federal estate tax exemption is scheduled to revert to \$1 million per person. A typical estate plan contains a formula which provides that on the first spouse's death, the maximum amount that can be transferred to a non-spouse beneficiary free from federal estate tax will be distributed to a Credit Shelter Trust, with the balance distributed to a Marital Trust. For decedents dying in 2011 or 2012, the Credit Shelter Trust could be funded with as much as \$5 million. For decedents dying in 2013, absent new legislation that same Credit Shelter Trust will have no more than \$1 million. Since the beneficiaries of the Credit Shelter Trust can be different than the Marital Trust (as is often the case with a second marriage where the children of the first marriage may be the beneficiaries of the Credit Shelter Trust), it is important to review your documents in light of the changes in the tax laws to see how they affect the allocation of your assets.

### Example: Common Estate Plan for a Married Couple



Generally, every 5 years or so, you should review your documents to make sure that the disposition of assets and choice of fiduciaries still make sense for you.

## **7. Do I need to worry about estate taxes?**

Under the Tax Act, a married couple can transfer up to \$10 million of assets without generating a federal estate tax—until 2013 when the estate tax exemption is scheduled to decrease significantly (to \$1 million per person with a top federal tax rate of 55%). Because the tax laws have been in a state of flux for the last decade or so, it is important to assess your potential estate tax liability and to plan for the liquidity needed by your beneficiaries to see that all estate taxes are paid. Keep in mind that the estate tax is due no later than nine months from the date of death. A forced sale of illiquid assets to generate cash needed to pay estate tax is likely to be disadvantageous to beneficiaries. A more efficient way to generate cash to pay estate taxes is to obtain a life insurance policy. The policy can be owned by an irrevocable life insurance trust so that the proceeds are not taxed in your estate for estate tax purposes, but the proceeds can still provide liquidity to pay the tax.

## **8. What other documents will I need?**

In addition to a Will (and perhaps a Revocable Trust), a basic suite of estate planning documents typically includes a financial durable Power of Attorney and health care durable Power of Attorney. A financial durable Power of Attorney (which can be called a Power of Attorney for Property, depending on the state) allows an agent to handle financial transactions on your behalf. This document can be effective immediately or only in the event of your incapacitation and can be incredibly useful in managing your financial affairs. In a health care Power of Attorney, you designate an agent to make health care decisions for you in the event you are unable to act. You may also indicate your preference for life-sustaining treatment, organ donation and end-of-life decisions. In some states, you may also create a Living Will in which you indicate your wishes for medical treatment in the event of a terminal illness or incapacitation. It is generally a good idea to review these documents every few years to make sure that they continue to reflect your wishes regarding medical care and choice of agents.

## **9. I have estate planning documents in place. Are they still valid if I move to another state?**

Generally, a validly executed document (e.g., Will, Revocable Trust, Power of Attorney) in one state will be valid in another state. So if you create a Will in Florida (complying with all of the requirements of Florida law) and move to New York, your Will should still be effective. However, there are nuances in state law concerning state death taxes and probate administration that may warrant a review by an attorney

in the new state of residence to make sure your documents are up to date. Moreover, if you move to a community property state from a non-community property state (meaning that the character of your property changes if you are married), then those issues should be addressed in updated documents.

### **10. How often should I review my plan?**

If you don't remember what your plan says, then it is time to review it. Generally, every 5 years or so, you should review your documents to make sure that the disposition of assets and choice of fiduciaries still make sense for you. Also, if you have undergone a major life event (like marriage, divorce or having children) or if there has been a major change in the tax laws or your financial condition, you should revisit your plan. When in doubt, call your estate planning attorney to discuss whether any updates or changes should be made.

--Ann Bjerke  
Senior Wealth Strategist

## **Protecting Your Financial Future: Long-Term Care**

### **Protect your financial future**

Much of the time and energy we devote to our financial lives focuses on accumulating wealth. In undertaking a more comprehensive approach to managing our assets and income, however, protecting wealth may be as important as accumulating it. In guarding against debilitating and even catastrophic events in the future, a likely but often overlooked threat to financial wellness is the ever-increasing cost of an extended or chronic illness. It is important to understand how long-term care expenses may potentially impact your financial future and how you can prepare to address them.

While not inevitable, the need for long-term care is a distinct possibility for millions of Americans.<sup>1</sup> The US Department of Health and Human Services recently reported that approximately 70% of

<sup>1</sup> The American Society on Aging, "Americans Fail to Act on Long-Term Care Protection," May 2003.

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individuals over age 65 will require some type of long-term care lasting, on average, at least three years. Additionally, 1 in 5 Americans over age 85 currently reside in nursing homes. Although age and infirmity contribute to the need for care, as of 2008, 40% of those receiving long-term care were between ages 18 and 64.

Aside from the likelihood of needing long-term care, the costs of care are significant and continue to rise. In 2005, the median annual rate for a private nursing room was \$60,225.<sup>2</sup> Today, the rate for the same room is \$77,745 – an increase of over 29% in five years. Depending on where you live and the type of facility you choose, the cost can be considerably higher. Funding the costs of home care is even more exorbitant. The average cost of a home health aide is \$20 per hour. In the event you require 24 hour care for 365 days a year, the annual cost of care would be \$175,200.

### **Government-funded long-term care options**

It is commonly believed that Medicare and Medicaid will pay the costs associated with an extended illness or disability. The truth, however, is that neither of these options provides significant long-term care coverage. Furthermore, the future of government-funded entitlement programs is unclear and reliance on such coverage should be carefully considered when planning for long-term care needs.

Medicare is government-based health insurance for persons age 65 and older or persons younger than 65 with certain disabilities. Long-term care coverage from Medicare is limited to medically necessary nursing facilities or home healthcare. Additionally, certain conditions must be met before Medicare will pay these services and the time-frame for coverage is limited. Medicare does not cover other forms of long-term care, including non-skilled care for assistance with activities of daily living, also known as custodial care.

Medicaid is a program provided by the Federal and state governments for limited health services and nursing home care for persons with low incomes and limited assets. Eligibility and available benefits vary from state to state based on economic resources. Like Medicare, not all forms of long-term care are covered.

### **Self-insuring against the risk of long-term care**

Approximately 90% of Americans do not have long-term care

<sup>2</sup> 2005-2011 Genworth Financial, Inc. and National Eldercare Referral Systems, LLC (CareScout). Conducted by CareScout, an independent research organization, 2011.

Medicare does not cover other forms of long-term care, including any non-skilled care for assistance with activities of daily living, also known as custodial care.

insurance. Effectively, they have chosen to self-insure. This means they will use current income and/or assets to fund long-term care costs. If income and assets are insufficient, they may also seek the help of family members or friends to provide assistance. Reliance on friends and family, however, can exact a tremendous financial and/or emotional toll on everyone involved.

Another often overlooked consequence of self-insuring is the lack of freedom to make choices. Some long-term care options can be cost-prohibitive. The statistics provided above are for average costs around the country. In many cases, geography and personal preferences dictate substantially higher expenses for long-term care.

### **Explore long-term care insurance options**

All insurance is designed as a way to transfer risk, and long-term care insurance is no exception. Considering the likelihood of needing some form of long-term care by age 65, it may make sense to explore long-term care insurance as a way to protect assets and income.

In choosing long-term care insurance, the policy can be customized to fit both your needs and your budget. The actual cost of the premiums you pay depends on several factors, including your age and state of health when you apply for the policy, the amount of the daily or monthly benefit sought, the length of the benefit period, the length of the elimination period (i.e., the deductible) and the type of inflation protection on the benefit, if any.

The types of long-term care services available may also vary by policy. Consider which options are most important to you. Nursing home care, assisted living and home care are most commonly included. However, the accessibility of services like hospice care, adult day care, respite care and intermediate care may also be pertinent in choosing a long-term care insurance policy.

### **Traditional long-term care versus life insurance-based long-term care**

After determining the type of coverage you desire, you have the option of choosing either a traditional long-term care policy or a life insurance-based long-term care policy.

A traditional long-term care policy is a pay-as-you-go plan based on monthly, quarterly or annual premiums. Premiums are expected to remain stable throughout the life of a policy but it is possible that

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premiums may change, often only on a class-wide basis and with regulatory approval, depending upon the state. Also, there is no return of premium or death benefit if no claim is ever filed against the policy.

A life insurance-based policy also offers a long-term care benefit, but it offers a death benefit as well. If the insured does not access or exhaust the policy benefits before death, an income tax-free benefit will be paid to named beneficiaries. Premiums may also be paid in a lump sum or limited payments. In addition, a return of premium option upon policy surrender may be available.

### **The bottom line**

Undoubtedly, the effects of long-term illness can be financially devastating if not properly addressed in the planning process. What you have saved and set aside for long-term care may not be enough, causing you to deplete your assets and jeopardize the future of your loved ones. You may also put your family members and friends, not to mention yourself, in an awkward position, both emotionally and financially, if you burden them with your care. And you may find that you are unable to enjoy the level of care you anticipated because you lack the appropriate resources to fund it.

To address these issues, speak with your Financial Advisor. Ask him or her to engage you in a thorough financial planning process to determine how you can address long-term care objectives and concerns. Your Financial Advisor can also help you explore the details and suitability of a variety of long-term care insurance products.

*--Robert Chwalk*

Insurance Product Manager

*--Lisa Snyder*

Wealth Management Consultant

### **Important Considerations:**

- Insurance products are issued by unaffiliated third-party insurance companies and made available through insurance agency subsidiaries of UBS Financial Services Inc.
- The premiums initially listed on long-term care policies are not guaranteed and may change over the lifetime of the policy.

Speak with your Financial Advisor for additional information about the wealth planning ideas discussed in this publication. Throughout your lifetime, you plan for many personal and professional milestones. Helping you meet these challenges and educating you on making appropriate choices are what our wealth planning professionals do best. To deepen our understanding of your financial needs and apply the technical skills to address the complexities of wealth management, your Financial Advisor may also introduce you to a UBS Wealth Management Consultant, a specialist in wealth planning. Working with a Wealth Management Consultant and utilizing our sophisticated financial planning tools, your Financial Advisor can help develop strategies to keep your wealth planning goals on track. We look forward to talking with you.

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