The Abel Advisor

a Financial Stewardship Newsletter

Abel Financial Strategies
Augustus W. Abel, CFP®
Financial Advisor
3775 Attucks Dr.
Powell, OH 43065
phone (614) 389-2075
Cell (614) 499-1201
aw@awabelfinancial.com
www.awabelfinancial.com

Hi Everyone,
I hope you had a wonderful Thanksgiving surrounded by family and friends!

Here in the midwest we find ouselves in our 4th or 5th Indian Summer. Some are saying though that it's safe to expect a stronger winter than last year. We'll see.

We'll see what Congress can do as well in the coming days before January 1. They have the ability to make some good decisions in a very important time. Of course, the markets will be impacted by their decisions. We'll keep our eyes on the progress and be prepared for the decisions to come.

Best Wishes for a Blessed Christmas!
A.W.

December 2012

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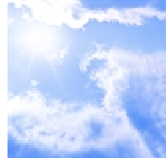
Estate Planning Issues for Unmarried Couples



According to the U.S. Census Bureau, there were 7.7 million unmarried partners living in the same households in 2010. Yet there are several laws that are potentially beneficial to married couples that are not available to unmarried partners, especially when it comes to estate planning. That's why it's important to recognize the risks faced by unmarried partners and some potential ways to help mitigate them.

Wills or trusts

All states have probate laws that provide some protections for the surviving spouse, but generally no such protections exist for a surviving domestic partner. Therefore, it's vitally important for live-in partners to prepare estate planning documents including wills and, in some cases, trusts. Through wills and trusts, you can provide for the financial support of your surviving partner after your death.

Titling assets

How your assets are titled can determine their disposition upon your death. For example, if you want your partner to receive your home at your death, you could title it in both names as joint tenants with rights of survivorship. However, retitling your home in this manner gives your partner ownership rights in the property. Also, depending on the value of the home, there may be gift tax implications, and the home may be exposed to claims of your partner's creditors.

While you could simply leave your home to your partner through your will or trust, you may want other family members to ultimately receive the home after your partner dies. In this case, you could create a life estate for your partner, allowing him or her the right to remain in the home for life, while naming other beneficiaries to receive title to the property at the death of your partner.

Beneficiary designations

Certain types of assets allow for their transfer at death through beneficiary designations. IRAs, life insurance, annuities, and 401(k)s are some examples. However, it's important to remember that generally, the beneficiaries named in these assets will receive them at your death, even if you make other provisions in your will or trust. So be sure your beneficiary designations are current and comply with your wishes.

Power of attorney and health-care documents

A durable power of attorney is a legal document that allows you to authorize someone to carry on your financial affairs and protect your property if you are unable to do so during a period of incapacity. Without this type of authorization, the courts may appoint one or more persons to act on your behalf. This proceeding can be expensive and time consuming, and you may not have any control over the person(s) appointed by the court. More importantly, your partner may not have access to needed financial support through your assets.

A health-care power of attorney or health-care proxy is a legal document in which you give your appointed agent the right to make certain health-care decisions on your behalf if you are unable to do so. Without this document, doctors and hospitals often rely on family members to make health-care decisions for someone who's incapacitated. Often state law does not recognize unmarried couples as family, so if you want your partner to be able to make these decisions on your behalf, you should name your partner as your health-care agent.

Domestic partnership agreement

Generally, the law does not always spell out the financial rights and responsibilities of domestic partners. To address these issues, live-in partners can use a domestic partnership agreement (if recognized in their state), which is a contract that addresses the sharing of income, expenses, and property.

Unmarried couples face potential estate planning pitfalls. And state laws vary, so it's important to consult an attorney or advisor who is familiar with state and federal laws that affect unmarried couples.

How to Give Wisely and Well

These are a few of the organizations and agencies that publish reports and charity ratings, and/or give useful tips and information to consumers on choosing a charity and giving wisely:

- ***Better Business Bureau's BBB Wise Giving Alliance, www.bbb.org***
- ***Charity Navigator, www.charitynavigator.org***
- ***CharityWatch, www.charitywatch.org***
- ***Federal Trade Commission, www.ftc.gov***

Giving to charity has never been easier. You can donate the old-fashioned way--by mail--but you can also donate online, by text, or through social networking sites. According to the National Center for Charitable Statistics, over 1.4 million nonprofit organizations are registered with the IRS. With so many charities to choose from, it's more important than ever to ensure that your donation is well spent. Here are some tips that can help you become both a generous and wise donor.

Choose your charities

Choosing worthy organizations that support the causes you care about can be tricky, but it doesn't have to be time-consuming. There are several well-known organizations that rate and review charities, and provide useful tips and information that can help you make wise choices when giving to charity (see sidebar). To get you started, here are some questions to ask:

- *How will your gift be used?* It should be easy to get information about the charity's mission, accomplishments, financial status, and future growth by contacting the charity by phone or viewing online information.
- *How much does the charity spend on administrative costs?* Charities with higher-than-average administrative costs may be spending less on programs and services than they should, or may even be in serious financial trouble. Some charities who use for-profit telemarketers get very little of the money they raise, so ask how much of your donation the charity will receive.
- *Is the charity legitimate?* Ask for identification when approached by a solicitor, and never give out your Social Security number, credit card number, bank account number, account password, or personal information over the phone or in response to an e-mail you didn't initiate. There's no rush--take time to check out the charity before you donate.
- *How much can you afford to give?* Stick to your giving goals, and learn to say no. Legitimate fundraisers will not try to make you feel guilty, and will be happy to send you information that can help you make an informed decision rather than pressure you to give now.

Harness the power of matching gifts

Many employers offer matching gift programs that will match charitable gifts made by their employees. You'll need to meet certain guidelines--for example, your employer may only match your gift up to a certain dollar limit--and the charity may need to provide information. Check with your employer's human resources department or the charity to find out how you can maximize your donations through a matching gift program.

Put your gifts on autopilot

If you're looking for an easy way to donate regularly to a favorite charity, look into setting up automatic donations from a financial account. When donors contribute automatically, the charity benefits by potentially lowering fundraising costs and by establishing a foundation of regular donors. And you'll benefit too, because spreading out your donations throughout the year may enable you to give more, and will simplify your record keeping.

Look for new ways to give

Although cash donations are always welcome, charities also encourage other types of gifts. For example, if you meet certain requirements, you may be able to give stock, direct gifts from your IRA or other retirement account, real estate, or personal property (but check with your financial professional to assess potential income and estate tax consequences based on your individual circumstances). You can also volunteer your time, using your talents to improve the lives of others in your community. And taking a "volunteer vacation" can be a fun way to involve your family and meet other people across the country or world who share your enthusiasm for a particular cause.

Use planned giving to leave a legacy

You can leave an enduring gift through your estate. For example, you might leave a will bequest, give life insurance, or use a charitable gift annuity, charitable remainder annuity trust, or charitable unitrust that may help you give away the asset now, while retaining a lifetime interest--check with your financial or tax professional regarding any potential estate or tax benefits or consequences.

Keep good records

If you itemize when you file your taxes, you can deduct donations you've made to a tax-qualified charity, but you may need documentation. Keep copies of cancelled checks, bank statements, credit card statements, or receipts from the charity showing the charity's name and the date and amount of the contribution. For donations or contributions of $250 or more, you'll need a more detailed written acknowledgment from the charity. For more information and a list of requirements, see IRS Publication 526, Charitable Contributions.

Life Insurance Tax Traps for the Unwary

If you take a loan against your cash value, the death benefit available to your survivors will be reduced by the amount of the loan. In addition, policy loans may reduce available cash value and can cause your policy to lapse. Finally, you could face tax consequences if you surrender the policy with an outstanding loan against it.

Life insurance has been recognized as a useful way to provide for your heirs and loved ones when you die. Lawmakers have long recognized the social significance of life insurance as a source of funds for widowed spouses and children, and have offered liberal tax benefits as an incentive to those who put their hard-earned dollars into life insurance policies. However, there are a number of situations that can easily lead to unintended and adverse tax consequences. Here are some of the life insurance tax traps you may want to avoid.

Policy loans

One area fraught with unintended tax ramifications involves life insurance policy loans. A number of different scenarios involving policy loans can result in unplanned taxes, but one of the most common situations arises when a policy is surrendered (cancelled) or lapses with an outstanding policy loan.

Generally, if a policy is surrendered or lapses while a loan is still outstanding, the loan balance becomes taxable to the policyowner as ordinary income to the extent the cash value exceeds the owner's basis (net premiums paid less any tax-free distributions received) in the policy--it's as if cash from the policy is distributed to pay off the loan.

Example: *You own a life insurance policy into which you paid premiums of $100,000 (your basis); the policy cash value is $200,000; and there is an outstanding policy loan of $150,000. You surrender the policy for $50,000 cash (the difference between your cash value and loan balance). However, much to your surprise, you'll have to include $100,000 as ordinary income for the tax year in which you surrender the policy ($150,000 loan balance + $50,000 cash - $100,000 premiums).*

Modified endowment contract (MEC)

Since 1988, if the total premiums paid during the first seven years of the policy exceed a maximum amount based on the death benefit, then the policy becomes a MEC. The tax-free treatment of the death benefit and the tax-deferred cash accumulation are generally the same for MEC and non-MEC life insurance, although the tax consequences for pre-death withdrawals are different.

For non-MEC policies, partial and full surrenders are taxed on a first-in, first-out basis, meaning cash value withdrawals are considered first coming from your investment in the policy (i.e., your premiums) then from any gain in the cash value (i.e., interest/earnings). Generally, policy loans from non-MECs are not subject to income tax.

But any withdrawals (including loans and partial or full surrenders) taken from the cash value of a MEC are treated as coming from earnings first and are taxed as ordinary income to the extent the policy's cash value exceeds your basis. In addition, if the policyowner is under age 59½, a 10% tax penalty may be assessed on the amount withdrawn from a MEC that's includible as income unless an exception applies.

Example: *You purchased a cash value life insurance policy with a single premium of $100,000, making the policy a MEC. The policy cash value has grown to $150,000. If you take out a loan of $75,000 against the cash value, you will have to include $50,000 of the loan amount as ordinary income ($50,000 of the total amount borrowed represents gain in the policy).*

Estate planning

Generally, the life insurance death benefit is includible in the estate of the policyowner and may be subject to federal and/or state estate tax. Often, attempts to remove the policy from the owner's estate create problems. A quick solution has the owner transferring ownership of the policy to another person or an irrevocable life insurance trust (ILIT), in an attempt to remove the policy from the estate. However, if an insured owns a policy on his or her own life and gives the policy to another person, trust, or entity and then dies within three years of the transfer, the death benefit will be included in the estate of the insured/transferor, subject to possible estate tax.

Issues may arise when the policyowner, insured, and beneficiary are three different parties. If the insured is the first to die, the policy proceeds are considered a gift from the owner to the beneficiary, subject to potential gift tax. Generally, the owner and insured should be the same, or the owner and beneficiary should be the same party.

Unintended ownership issues may result if the insurance policyowner and insured are different parties, and the owner is the first to die. If the policy owner did not name a successor owner, then the policy will be subject to probate, including possible creditors' claims and unnecessary costs. To avoid this scenario, the owner should name a successor owner.

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Abel Financial Strategies
Augustus W. Abel, CFP®
Financial Advisor
3775 Attucks Dr.
Powell, OH 43065
phone (614) 389-2075
Cell (614) 499-1201
aw@awabelfinancial.com
www.awabelfinancial.com

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What health-care provisions are effective in 2013?

With the Supreme Court's favorable ruling on the constitutionality of the Patient Protection and Affordable Care Act (ACA), more of the law's provisions will become effective in 2013. Here are some of the new features that may be important to you.

Medicare Part D participants who reach a gap in their drug coverage (the "donut hole") are required to pay the entire cost of prescription drugs out-of-pocket. In 2013, the ACA will continue to close this gap by increasing subsidies to reduce the cost of brand-name and generic drugs to participants who reach the donut hole. These subsidies will continue until 2020, when the participant's maximum contribution toward the cost of prescriptions will be reduced to 25%.

The threshold for the itemized deduction for medical expenses increases from 7.5% to 10% of adjusted gross income, beginning in 2013. However, this increase is waived for taxpayers age 65 and older through 2016.

In 2013, the annual pretax employee contribution to a Section 125 cafeteria plan flexible spending account (FSA) is reduced to $2,500, subject to annual increases for cost-of-living adjustments. The reduction does not apply to certain employer nonelective contributions (e.g., flex credits).

Beginning in 2013, the hospital insurance (HI) portion of the payroll tax, commonly referred to as the Medicare portion, increases by 0.9% for individuals with wages exceeding $200,000 ($250,000 for married couples filing a joint federal income tax return, and $125,000 for married individuals filing separately).

In addition, 2013 marks the imposition of a new 3.8% Medicare contribution tax on the unearned income of high-income individuals. This 3.8% contribution tax generally applies to the net investment income of individuals with modified adjusted gross income that exceeds $200,000 ($250,000 for married couples filing a joint federal income tax return, and $125,000 for married individuals filing separately).

Looking ahead, 2014 brings the implementation of the health insurance exchanges, premium and cost-sharing subsidies, and the requirement that most individuals have health insurance.

How does health-care reform affect women?

The Patient Protection and Affordable Care Act (ACA) expands women's access to health insurance and adds several reforms to the existing health-care system that are specifically beneficial to women.

Access to care and affordability are important issues for women. According to the U.S. Department of Health and Human Services, because almost twice as many women than men who receive employer-provided health insurance are covered as dependents, they are susceptible to losing that coverage should they become widowed, divorced, or if their husbands lose their jobs.

In addition, the cost of coverage may significantly impact women. Women earn less than men, on average, and are more likely to be out of the workforce to care for children, parents, or other dependents. Because of this trend, out-of-pocket costs such as co-pays, deductibles, and premiums can pose a particular threat to women's access to affordable care.

The ACA provides for the creation of state-level health insurance exchanges, available to small businesses and uninsured individuals, that will serve as a marketplace of private and public health plans. Individuals and families purchasing insurance through insurance exchanges may be eligible for subsidies or tax credits (based on income) that can be applied towards the cost of insurance. According to the U.S. Census Bureau, 20% of women between the ages of 18 and 64, or about 19 million women, are uninsured. Of those, it is estimated that 36% will be eligible for tax credits and subsidies.

ACA specifies essential health benefits for women that must be offered by nongrandfathered plans. These benefits include maternity and newborn care, including prenatal visits and pediatric services. Several preventive services must be offered without co-payments or deductibles, including mammography exams; Pap tests; colonoscopies; type 2 diabetes screening; obesity screening; several immunizations including hepatitis, influenza, and HPV; and alcohol and tobacco counseling. Specific coverage benefits will continue to be shaped by U.S. Health and Human Services regulations.

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