



# FINANCIAL *Planning Strategies*

A Financial Planning Update

## Touching All the Bases with Policy Ownership

While many of us think of life insurance planning in relation to *type* and *amount* of coverage, a more complete analysis also includes **policy ownership**. In many cases, the proceeds of a life insurance policy may be unnecessarily included in your estate—unless you plan ahead.

Without insurance, many estates fall below the level at which they are subject to Federal estate taxes. For 2016, the **applicable exclusion amount** is \$5.45 million per individual (annually indexed for inflation). Estates that exceed this amount are subject to Federal estate taxes at a top rate of 40% in 2016. The proceeds of life insurance can increase the value of your estate to a level where it could become subject to Federal estate tax.

Fortunately, you can prepare for the possibility of Federal estate taxes. There are two ways to keep insurance proceeds out of your estate:

1. Transfer ownership of your insurance policies to someone else, generally your **beneficiary(ies)**
2. Transfer the policies to a **trust**

Either option, if executed properly and in a timely manner, can decrease your Federal estate tax. You may not have to change ownership of a policy that names your spouse as the **sole beneficiary** because the **unlimited**

**marital deduction** allows your spouse to inherit the policy proceeds without estate taxation. However, you may benefit from transferring your policy out of your estate if the purpose of the insurance is to help pay estate taxes or provide for heirs other than your spouse.

The paperwork involved in changing insurance policy ownership is relatively simple. You do have to sign away all rights to your policies, however, making this decision *absolute* and *irrevocable*. Also, you cannot change your beneficiaries, and in the case of policies with **cash value**, you no longer have the right to borrow against them or surrender them for their cash value.

Keep in mind that if the transfer is done within three years of your death, the policy proceeds are generally still considered part of your estate, regardless of ownership. Therefore, proper planning is necessary to help ensure that you achieve your desired results.

Ownership of an individual group insurance policy can generally be transferred to anyone who is old enough to handle money. Depending on your particular circumstances, it may be advisable to transfer a policy directly to a beneficiary or, in the case of a minor, to a **trust** that is designed for the benefit of a child.

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## Touching All the Bases with Policy Ownership

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Before signing away insurance, it is important to carefully review the consequences. Gifting insurance may have **gift tax** consequences if the transfer is to anyone other than your spouse. In 2016, the **annual gift tax exclusion** is \$14,000 per gift to any single donee, and \$28,000 for gifts made jointly by a married couple.

For those in higher tax brackets, one useful technique to shelter large

policies from estate taxes—and to protect the interests of minor beneficiaries—may be to transfer ownership to an **irrevocable life insurance trust (ILIT)**. When you die, the **trustee** named by you can distribute income to your beneficiaries or, if necessary, use the proceeds to pay estate taxes. For specific guidance, be sure to consult with your qualified tax, insurance, and legal professionals.

The decisions you make regarding policy ownership are no less important than the decisions you make regarding what type of policy and how much insurance you need to fulfill your overall objectives. So, when planning your insurance strategy, make sure to cover all the bases. \$

## The Four Forms of Property Co-Ownership

**O**wning property with another individual or partner can be complicated. Consulting with your legal professional can help you establish the form of ownership that will benefit you and your heirs. The four forms of co-ownership are the following:

**Tenancy in common** is a form of co-ownership often used between unrelated individuals. Tenants in common may own unequal shares of property; however, shares between partners are said to be “undivided,” which means each owns a proportionate interest in the entire property. For example, if two individuals are equal tenants in common to a parcel of land, it is inaccurate to describe one co-owner as owning the west half and the other as owning the east half. Rather, both own a one-half interest in the entire parcel.

**Joint ownership** is a specific type of co-ownership where each owner's



legal interest is equal to the interest of every other joint owner. For example, if there are three joint owners, each owns an equal, undivided, one-third interest in the entire property. In addition, joint ownership carries the **right of survivorship**. When a joint owner dies, the surviving joint owners automatically succeed in ownership of the deceased joint owner's interest. Survivorship rights of a joint owner are given precedence over the claims of the decedent's creditors.

**Tenancy by the entirety** is a unique form of joint tenancy solely for married couples with one significant difference: The creditor

protection of joint ownership extends to the lifetime creditors of the tenants by the entirety.

**Community property** applies to married couples who own property in any of the following nine states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Regardless of whose name is on any ownership paperwork, any property acquired during the marriage is “owned” by both parties.

Remember, splitting property, for any reason, can be difficult. So, the decision to purchase property with another party is one that requires careful consideration. \$

## Taxes and Your Estate: Reconcile Your Domicile

Increased mobility in today's society has changed the ways in which we live, work, and play. Compared to previous generations, it is now quite common for work and recreational activities to cross state lines, resulting in ownership of property and formal relationships in more than one state. However, the expanded opportunities created by mobility may come at a price: the increased likelihood that several states may be able to tax your estate when you die. If you were to die today, do you know if more than one state would attempt to levy taxes on your estate?

The term **domicile** generally refers to the place intended to be your *permanent* home, as distinguished from the term *residence*, which could be any place you live. Although you could have simultaneous residences in several states, in theory, you can have only *one* state of domicile at a time.

A problem may arise when theory and reality part company: when separate states reach different conclusions by applying different definitions of domicile to the same set of facts. This may result in the apparent inconsistency of more than one state claiming the deceased was a "domiciliary," and each taxing that person's estate accordingly.

Under the Uniform Interstate Compromise of Death Taxes Act, the states involved may be able to reach a compromise in a



specific situation. However, if the states involved have not adopted the Act or cannot agree on a solution, the estate in question could be fully taxed in *multiple* jurisdictions.

### Establishing Your Domicile

Fortunately, there are steps that can be taken to establish your state of domicile. If you have moved, your "true" domicile may hinge on the *number* and *significance* of the contacts you have in your former and present state. Consider the following significant factors:

- **Retention of "historical" home.** If you have moved, have you sold your long-time residence in a former state?
- **Business relationships.** In which state are your significant business contacts located?
- **Location of property.** Where is most of your significant real and tangible personal property located?
- **Social connections.** Where do you maintain political, civic, religious, and family connections?
- **Time spent.** Where do you spend the majority of your time?

While you may feel your *intent* is clear, it is most likely that your *actions* will be viewed as the evidence of your intentions. Consequently, simple acts such as changing your voter registration to the new locale, changing your automobile registrations and driver's license, formally resigning from organizations in your former state, and formally joining organizations in a new state may be viewed as evidence of your intent to change your domicile.

Under some circumstances, the lines may not be so obvious. For example, if you moved to another state but maintained significant business and social relationships in your former state, where is your domicile? In situations where conflicting evidence exists, an appropriate strategy might be to first determine which state appears most advantageous in terms of estate taxes and to determine how domicile is defined there. You can then focus on the factors that will be the most significant in reconciling your domicile. Estate taxes may be one factor in choosing a state of domicile. For guidance on your unique circumstances, be sure to consult your tax and legal professionals. \$



## Financial Planning and Divorce

**D**ivorce ranks as one of the most stressful of life's events. Because it often involves change in every area of life, it often requires a fundamental reexamination of future goals and expectations.

Once divorce has progressed from a possibility to a reality, it is essential that you learn how to protect your legal rights. From a financial perspective, divorce involves three things: division of marital property, child support, and alimony. Understanding the divorce process can allow you to take action to protect your future and your family.

Instead of reacting to events as they occur, the following steps may help you prepare in a practical manner:

- **Consult an Attorney.** Find out about your legal rights. An initial consultation does not obligate you to file for divorce. It allows you to ask questions and preview the proceedings, and it can help reaffirm your sense of control. You may want to explore the pros and cons of litigation and mediation as methods to settle property and custody arrangements.
- **Draft a Chronology.** Start tracking the details of your marriage. Dates are important, including



the date of your marriage and separation, as well as the birth dates of your children.

- **Inventory Your Assets and Liabilities.** Compile a complete list of what you *own* and what you *owe*. Gathering recent tax returns, insurance policies, retirement plan documents, and financial statements can provide you with a comprehensive financial picture. Begin thinking about which possessions you would like to keep and which you wouldn't mind relinquishing.
- **Determine Your Cash Flow Needs.** Analyze your current expenses, while married, and attempt to estimate their cost once you are on your own. This information can help you prepare a cash flow statement that will become

the basis for negotiating your financial support needs. Remember to consider potential new expenses, such as counseling or childcare. Also evaluate your future insurance needs.

- **Explore Your Career Options.** Whether you have been working full-time, part-time, or not at all, now may be a good time to assess your career options. If you have put your career on hold for the sake of your spouse's career or your family, you might consider seeking additional support for any training necessary to resume your career. Your financial situation will likely determine if you are going to further your education or possibly work a second job. Keep in mind that difficult circumstances, such as a divorce, can serve as a catalyst for planning and achieving a more satisfying future.

The emotional aspects of divorce may tempt you to give all of the responsibility to your attorney. However, keep in mind that once the divorce is final, you, not your attorney, will live with the consequences. Planning and taking appropriate and necessary action can help protect your interests and meet your future needs. 💰

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