# Securing a Healthy Future: Considering the Options for Protecting Your Estate

Presented by the American Society of Cosmetic Dermatology & Aesthetic Surgery

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When individuals, such as physicians and other healthcare professionals, pay attention to taxes they tend to focus on reducing business and personal income taxes to a minimum. Wealth can be created in order to live a more comfortable lifestyle, to fund higher education for children or grandchildren, and ultimately to provide adequate income for retirement years. However, there is an additional tax that should be addressed over your lifetime—the estate tax.

If we assume that the US federal estate tax is reinstated, based on the 2009 law each individual has the ability to leave up to $3.5 million to anyone without having to pay an estate tax. For example: imagine that a couple has a $10 million estate (including $3 million of life insurance) and simple wills leaving their estate to each other and, eventually, to their children. Upon the death of both spouses, the federal estate tax would be approximately $2.8 million. But with the addition of certain types of trusts and proper titling of assets, the federal estate tax could be zero.

## Know the Options

Comprehensive estate planning is an opportunity to provide for the distribution of your assets according to your desires and the specific needs of your family and to minimize federal and state death taxes along with other administrative estate expenses. Unfortunately, this process often is not attended to for a variety of reasons and the impact can be costly, as the above example demonstrates. This can be corrected by avoiding common misconceptions about estate planning.

One of the first steps to starting the process is to prepare a personal financial statement. This statement should show the approximate fair market value of assets and liabilities and how the assets are titled. Are they in the husband's name, wife's name, jointly titled, or in a revocable trust? It also is important to recognize the liquidity of each asset. For example, "A" assets are cash or would become cash at death, such as life insurance. "B" assets can be liquidated quickly, but are subject to fluctuation due to market conditions. These assets would include marketable securities and qualified retirement plan assets. "C" assets could be converted to cash, but would take time due to a lack of an established market, as in the case of real estate. And "D" assets are items that are not to be liquidated and passed on to children. Personal property and collectibles would qualify as assets in this category.

## Get Specific

The next, and one of the most important steps, is for the husband and wife to discuss how they would like their assets to ultimately be distributed. Recipients may include children, grandchildren, other relatives, nonrelatives, and charitable organizations. A word of caution: approaching estate planning with the assumption that you can treat all children fairly and equitably may be a difficult challenge, especially with illiquid assets. And even though the reduction or deferral of estate taxes can be a part of this discussion, it should only be a part of what drives the decisions.

When the value of the estate reaches a point where the family has accumulated enough assets to maintain their current lifestyle and projected retirement income, a number of estate tax planning techniques should be considered: reducing estate taxes, freezing the value of certain assets, deferring taxes to the next generation or beyond, and combining charitable giving with increasing income.

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These techniques include annual gifting of $13,000 per spouse to as many people as desired. One of the more popular forms is making this gift to 529 education plans for children and grandchildren. Other available practices are the $1 million gift tax exemption during life, grantor retained income trusts (GRAT and GRUT), the sale of an asset to a defective grantor trust (DGT) with no current tax, creating family limited partnerships or limited liability companies to manage investments and make discounted gifts to the next generation, family loans with self-canceling installment notes (SCIN), direct charitable gifts, charitable remainder trusts, and charitable lead trusts. There are advantages and disadvantages to every technique. Individual circumstances must be analyzed thoroughly before the right plan can be implemented.

## Protect What Is Important

Another important aspect of long-term estate planning is asset protection. Asset protection may be as simple as protecting children from the consequences of divorce or as complex as protecting assets against any type of lawsuit in the future. Basic trust planning may be adequate or it may involve creating trusts in a different state or potentially offshore. This is a topic that should be discussed with an attorney who is an expert in this area.

Assets that include ownership in a business interest should especially be reviewed when there is more than one shareholder. There should be an operating agreement and usually a buy/sell agreement to cover all terminations of ownership to allow for a smooth transition and hopefully no legal disputes. The purchase of a shareholder's interest at death also is a source of liquidity for the estate. A combination of a reduced stock purchase price along with a deferred compensation arrangement can be helpful in structuring an affordable solution for a future exit strategy.

Planning for the inevitable is rarely a high priority. However, once the process is completed, documented, and implemented, it can afford great peace of mind. Unfortunately, tax laws are always subject to change and family situations will change as time goes by.

Look for a specialist in the area of estate planning to help you create or evaluate what is the best plan for yourself. Because the course of our lives takes us in many different directions, it is essential to make it a priority to review everything every few years, even if nothing needs to be changed.

The Internet can be an excellent source for business resources and information geared specifically to physicians for estate planning. You can find comprehensive resources to answer the questions you may have to fulfill both your professional and personal needs. Some Web sites can connect you to estate planning professionals whose business is to find answers for your individual questions. ■