GIFTS TO FAMILY | ASSET PROTECTION

# How to plan for, preserve your legacy

Often, looming retirement can feel like standing on the high-dive board at the pool. You've just exerted everything you have climbing the ladder to reach the board. Your knees wobble a bit on your approach to the edge. When you look down, your destination seems far away and indefinite. You have to time it right so that you feel ready, and when you finally make your move, you need to be positioned correctly when you hit the water — or else, you will feel the strain. And, right before you leap, you take your last, big breath of fresh air … hoping it won't be too long before you can breathe freely once more.

So what will happen when you resurface? Did you time it right?

Timing and positioning are critical to success in legacy planning and retirement.

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Doug Mathey, president of BCG Wealth Advisors and a partner with BCG Legacy Advisors, says, "It's much more complicated than adding up account balances to see if clients have reached a magic number. To begin with, there are many factors that may be trickier to quantify."

The top three legacy planning factors from our clients are:

■ How much is my business worth?

■ How much will I have after taxes?

■ Will I have enough to take care of my family and myself?

Defining a legacy is as simple as stating what you envision for the long term. How you foresee your retirement, things you wish your family to have, and the ability to plan for potential health care problems or other unforeseen emergencies that won't burden anyone.

Achieving a desired level of a legacy plan is more complex. The company's objectives, strategy and capabilities must be measured and aligned with the business owner's objectives. Intricate business valuations, strategies and diversified planning are going to be critical to a legacy's success.

## Understanding the value of your business

The business valuation in legacy planning is not as easy as giving you a number based on assets. The worth of your business is dependent upon knowing exactly how, when and to whom ownership will be transferred. This is the simplest way to maximize returns. Creating a business legacy, as well as planning for your personal legacy, is a complex, yet critical task.

"The majority of business owners put it off thinking that they have time. But it's important to create a long-term plan and incorporate your legacy plan into part of your overall business strategy. Positioning your business and making the right moves now can drastically increase the value of your business and legacy in the long term," states Ray Lampner, partner with BCG Legacy Advisors.

According to statistics, there is a 70% chance that a company will transition ownership in the next 10-15 years. If you are a key stakeholder, or business owner, your concern for this circumstance will be even greater. Yet, when the majority of business owners are asked, only about 14% have a succession plan in place.

## Protecting your wealth … after taxes

When the tax man cometh, it can be quite a hit on your legacy plan. For many, income taxes are the single greatest expenditure on an individual's personal income statement.

It's very important to enlist a trusted advisor that can tap your assets in the right order to minimize your tax bill.

A good advisor will be able to:

■ Manage investments to maximize after-tax returns.

■ Work within a multi-dimensional tax system and coordinate a strategy to contemplate for regular, tax, alternative minimum tax, capital gains and qualified dividends tax, net investment income tax, and itemized deduction limitations.

■ Create a strategy for fund withdrawal to keep taxes low, projecting income and bracket management, and use investment vehicles that minimize income taxes (i.e., tax-managed mutual funds).

While investors can't control the direction and returns of the market, they should be able to control for risk, expenses and taxes to a certain degree. Through strategic tax planning in conjunction with asset protection strategies, wealth can be preserved and protected for the benefit of heirs and possibly even a charitable legacy if you desire.

## Preserving your legacy

A vast majority of clients are concerned first and foremost with preserving the wealth they accumulate so that their families may benefit. Ensuring that there are enough assets to reach personal and financial goals is the critical first step in retirement planning. But don't undermine the assessment of business and personal risks. You will need to implement strategies to avoid these risks. An advisor that has experience in the diversified steps of legacy planning

# How to protect inherited IRAs

BY SUSAN RACEY AND PETER IGEL


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The U.S. Supreme Court's recent decision in *Clark v. Rameker* has given individuals with IRAs a new reason to consider the use of trusts as IRA beneficiaries. The decision made clear that inherited IRAs do not receive bankruptcy protection under federal law.

## Federal exemption

The Bankruptcy Code allows debtors to retain certain property to help start over. Most retirement assets, including traditional IRAs, are protected.

Until recently, it was unclear whether an IRA inherited by a beneficiary would be protected. The Court concluded that bankruptcy law does *not* exempt inherited IRAs.

In *Clark v. Rameker,* a woman established a traditional IRA. Upon her death, her daughter inherited the IRA. When the daughter later filed for bankruptcy, she attempted to exempt the IRA. The court denied the exemption due to differences between traditional IRAs, which are funded for retirement, and inherited IRAs, which are received as a result of the IRA owner's death.

These differences persuaded the court that inherited IRAs should not receive the bankruptcy protection intended for assets set aside for retirement.

## State exemption

Because bankrupt debtors may opt to apply state exemptions instead of the federal exemption addressed in *Clark v. Rameker,* many debtors will look to state law for protection. Fortunately for debtors, Ohio offers protection for inherited IRAs.

Still, reliance on state exemptions for planning purposes is not always dependable in our mobile society. For example, if a person funding an IRA lived in Ohio but one or more of the beneficiaries reside in another state that does not protect inherited IRAs, the IRA would not be protected in bankruptcy.

## Trust alternative

Instead of relying on Ohio's exemption, IRA owners may protect the IRA by naming a trust as the beneficiary. In the event of the beneficiary's bankruptcy, the trust can protect the inherited IRA regardless of the individual's state of residence.

Also, the same trust can protect the IRA against other creditors outside of bankruptcy and in the event of a divorce.

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