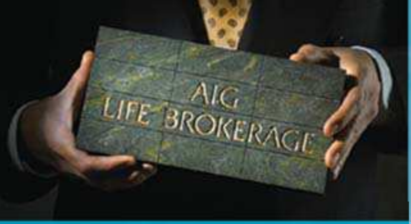

PARTNERING FOR EXCELLENCE

Informational ideas important to large and complex cases

Advanced Sales DIGEST

Vol I, Issue 5 ◆ June 2005

SIMPLE TECHNIQUES FOR BASIC ESTATE PLANNING*

by Ed Sanchez, CLU, ChFC, MBA, MSFS
Advanced Sales Consultant
AIG Life Brokerage

Tired of hearing about the $10 million dollar estate owner? With Senate Republicans and Democrats getting closer to an estate tax compromise which would boost the exemption equivalent to at least $3 million per person and lowering the tax rate, now is a good time to look at life insurance and estate planning opportunities for clients for whom estate tax savings is not a goal.**

What would the world look like with substantial reform?

One outcome of a compromise might be a "freeze" of the EGTRRA provisions at the 2009 exemption level, $3.5 million per person. Another consideration is whether or not a repeal or modification of the step-up in basis for property acquired upon death may become permanent. The loss of estate tax revenue might be offset by additional capital gains tax collected from the estate beneficiaries who sell assets acquired by reason of death. If step-up in basis is substantially modified or repealed, then some estate owners may be in need of liquidity with which to pay capital gains tax.

Basic Estate Planning Steps

Regardless of estate size, or whether or not the step up in basis applies to your client, or a tax remains in any final legislation, there are certain basic estate planning steps most clients should consider. These typically include:

Gathering estate data and obtaining a clear expression of your client's desires and objectives. Data will be worthless if you do not have a definite idea of your client's estate planning goals.

Once it becomes clear what your client's goals are, selecting the appropriate members of his/her estate planning team. In most cases, of course, this will include you, the life insurance professional, and a competent estate planning attorney.

Analyze the data and goals. Needs analysis software, available in your AIG Life Brokerage provided WinFlex CD, contains a great variety of needs analysis calculation programs and (in AMO Salesmaker) a large library of concept descriptions, suitable for client presentation.

Formulate and present recommendations. Always look for alternate solutions; in most cases there is at least one. Assist your client in implementing the solution. This may go beyond the life insurance application process. You may need to encourage your client to complete necessary legal documents, change title to assets, or complete other steps.

Schedule periodic review of the plan, typically when significant life events occur, or at least every three years.

Simple Wills

Wills are an expression of caring for loved ones and their well-being. Creating a will is an opportunity to make decisions about how your client's property passes, to whom it

continued on next page

passes, and at what cost in time and money. Having a will, of course, avoids having the state decide who will receive your property, since all states have legislation in place which will distribute your property in the absence of a will.

A simple will normally provides for:

- the distribution of the estate, to a surviving spouse if there is one, otherwise to children, or next of kin (excluding property which passes by other means such as jointly held real estate or life insurance with a named beneficiary),
- specific bequests (such as grandmother's Steinway grand piano),
- the appointment of an executor (the person responsible for paying estate expenses and distributing estate assets) where there are minor children,
- appointment of a guardian,
- payment of debts and expenses.

Under the current law (and probably under any new legislation), where all assets pass to a surviving spouse, there are no federal estate taxes due, because of the unlimited marital deduction.

For younger clients, those with an estate not subject to federal estate tax, or those not choosing to plan for tax reduction, this planning level may be sufficient to meet their goals.

Trusts

Clients with more complex estates, those subject to federal or state estate tax, or those who believe that their heirs would be well-served with some form of asset management assistance or guidance, may wish to consider the use of trusts.

A trust is created when one person (the grantor) transfers property to another person (the trustee) to administer for the benefit of a third party (the beneficiary). Trusts are far more than mere devices for saving estate taxes, and there are many purposes which may be served by a trust.

Often, an estate owner may use a trust to protect a spouse, child, parent, or other loved one against possible errors in their judgment in the management of trust assets. For example, Bill is concerned that, should he die prematurely, his wife, Mary, may lack the skill and experience to effectively manage their assets. As a result, Bill creates a trust, to receive assets upon his death for Mary's benefit. He names his brother as trustee. The trust specifies under what conditions assets and income are paid to Mary, and whether there are additional beneficiaries (such as children), upon Mary's death.

Another variation on this theme is that Bill has two children from a previous marriage and wants to be sure that they are not disinherited by his second wife. Assume that Bill owns $2 million of net assets, is not subject to estate tax, and/or does not have estate tax savings as one of his goals. The trust could provide that Mary has the right to all of the trust income, and perhaps a limited right to withdraw trust principal, and, upon Mary's death, the remaining trust assets pass to Bill's two children.

Because Bill is not interested (or perhaps not affected) by death taxes, it is not necessary to ensure that the trust meet the definition of a QTIP (qualified terminal interest property) trust in order to qualify the assets for the marital deduction. Why? Since Bill has no interest in avoiding estate taxes, he has no interest or concern for the marital deduction. The primary objective of his trust is to avoid disinheriting his children while still providing income to his second wife, and perhaps also providing the second wife and the children with asset management assistance from the trustee. If they lack experience or financial judgment to manage a large amount of assets single-handedly, the trust would also include a spendthrift provision that restricts the purposes for which a beneficiary may use trust funds.

What about the credit shelter trust? If an estate is not subject to federal or state death taxes, and/or the estate tax exemption is so high as to entirely avoid the estate tax, then trust planning need not concern itself with death tax avoidance. Thus, there is no credit, and there may be no reason to stipulate that the amount going into the trust is an amount tied to death tax savings.

Life Insurance

Life insurance should continue to be part of almost any estate plan. Life insurance 1) replaces the premature loss of the principal wage earner, 2) helps solve business needs (buy and sell, for example), 3) pays state death taxes and/or capital gains taxes, where applicable***, 4) equalizes an estate dominated by one asset such as a business

continued on next page

or farm, 5) serves as an ideal vehicle to leverage the value of a gift to a charitable organization, or 6) with cash value life insurance, offers a means to accumulate cash value on a tax-favored basis, to use for a multitude of purposes, including college education funds or supplemental retirement income.

Finally, life insurance can *create* an estate. It can, for example, allow a retired parent to deplete his/her assets in order to maximize retirement income without worrying about what will be left for the children. In this case, life insurance, either personally owned, or owned by a trust, might be the parent's primary legacy to his/her children.

And, for baby boomers poised to retire, many worrying about the sufficiency of their retirement income, life insurance may be the ideal estate to pass to the next generation.

*For Producer Use Only. Not for use with the public. This article is intended to illustrate sales ideas and is not intended to provide tax or legal advice. Clients are strongly encouraged to seek professional tax and legal advice with regard to these or other sales ideas.

**On April 13, 2005, by a vote of 272-162, the House voted to make permanent the one-year suspension of the estate tax due in 2010. April 14, 2005, *Wall Street Journal*, pp. PA1. Further, it has been reported that Senate Democrats and Republicans are confident of reaching a compromise on estate tax reform by the end of this summer. June 22, 2005, *Wall Street Journal*, pp. PA1.

***Some states continue to impose state death taxes. Check your applicable state law.