



# PARTNERS

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## WEALTH MANAGEMENT

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## Five Documents At The Core Of An Estate Plan

**E**very estate plan is unique because of a particular family's circumstances. Still, most people share many primary objectives that may be reflected in five documents often found at the core of a plan.

If your current estate plan doesn't include these five items, you might need to fill the gaps. And if you don't yet have a comprehensive estate plan in place, it's probably time to make that a priority. Mortality can sneak up on anyone.

**1. Financial power of attorney:** A power of attorney is a legal document that authorizes another person to act on your behalf. A financial power of attorney enables the "attorney-in-fact"—the person specified to act for you—to conduct your financial affairs. Many states have a standard form for financial power of attorney.

Usually, the power of attorney is "durable," meaning that it remains in effect in the event you are incapacitated. But you might use a non-durable power of attorney for specific purposes, such as to have someone manage your portfolio temporarily. Keep in mind that a power of attorney is enforceable only when it has been established before its creator becomes incompetent.

**2. Health care power of attorney:** Like a financial power of attorney, this authorizes a designated person to act on your behalf in the event you're unable

to make your own decisions—in this case, about your medical care. This goes further than a living will, which generally applies only if you're terminally ill or on life support, based on the prevailing state law.

Your attorney-in-fact for a health care power of attorney needs to be someone you can trust to act in your best interests. Typically, that would be a spouse, a child, or another close family member. But you'll also need to name contingent and successor agents.

**3. Health care directives:** Although there are several other kinds of health care directives that you might include in your estate plan, the most common version is a living will. Without it, family members may be left in a

quandary about end-of-life decisions involving your care. This can lead to turmoil and questions could even end up being decided in court.

Often a health care power of attorney is coordinated with a living will, or the two may be combined in a single document. Some states have forms combining these elements and reflecting other personal choices such as whether to donate your organs.

**4. Will:** No matter how sophisticated your estate plan is, you'll likely circle back to the need for a will to tie everything together. A will can be



## Getting Your Ducks In A Row

**E**state planning is not the most popular topic. In fact, some people will do everything they can to avoid thinking about death but what happens when you die? You spend your whole life accumulating wealth. What does the probate process entail? How will your assets be taxed? Have you done everything possible to preserve your hard earned wealth for future generations and/or to ensure your philanthropic goals are achieved? Basic estate planning may include Wills, Powers of Attorney, Revocable Trusts and Guardianships. Advanced estate planning may include Asset Protection Trusts, Dynasty Trusts, Charitable Trusts, Private Foundations, Family Limited Partnerships, LLCs, Business succession planning, Exit planning and Wealth Transfer strategies.

For 2017, the estate and gift tax exemption is \$5.49 million, per individual. The annual gift exclusion remains at \$14,000.

In 2018, the estate and gift tax exemption is \$5.6 million, per individual. The annual gift exclusion is \$15,000.

Everyone's situation is unique, making sure your estate plan is funded once your estate planning documents have been executed is not. Documents are great but without taking the necessary steps to move assets to the appropriate entity, you are not taking advantage of the vehicles created to protect and preserve your financial life.

We encourage you to review your estate plan every three to five years and when a life event occurs.

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# Lending Money? Watch Your Tax Step

**D**oug Burnside is in a quandary. His daughter, Megan, needs money to get a new business venture going. But Doug can't afford to give her the money outright and she has had trouble getting a loan from a bank.

What can be done? One idea is for Doug to lend his daughter the cash. Megan can repay Doug, with interest, if the business succeeds. Everyone wins.

But this kind of intra-family loan brings several potential tax pitfalls. As long as the loan is for \$10,000 or less, there won't be a problem. However, if the borrowed amount is larger and he doesn't charge the going rate of interest, the IRS will "impute" interest for him, based on its own assumptions. He'll end up being treated as if he had charged his daughter interest, even though he hadn't, and he'll owe tax on that "phantom income" that he didn't receive.

In such cases, if the loan is for \$100,000 or less, the interest you will be considered to have received annually for tax purposes is limited to the amount of your child's net investment income for the year. And if that amount doesn't exceed \$1,000, you can avoid taxable interest income on the intra-family loan. But the IRS may still intercede if it suspects that you're trying to dodge the tax liability.

How do you figure out what the "going rate" for interest is? It depends on several factors, including the type of loan, its length, and the

interest rates in your local area. You might be able to charge slightly less than a local bank would get, but you can't go overboard.

What happens if Megan's business fails and she can't pay Doug back? The IRS could determine that the "loan" was always meant to be a gift. To avoid that problem, it's best to have an attorney draft a formal loan document. It should include the usual terms that would be found in a bank loan. For instance, the document will usually indicate:

- The amount of the loan;
- The time allowed for repayment;
- The interest rate structure;
- A description of the collateral securing the loan.

Finally, have the loan document witnessed and notarized. This is the best proof you can have if the IRS ever challenges the deal. Also, keep records showing repayments to demonstrate that the arrangement is a bona fide loan. ●



# This Tax-Free Rollover Goes Right To Charity

**T**he tax law provides a unique planning opportunity for retirees who have to take required minimum distributions (RMDs). You're allowed to transfer funds directly from your traditional IRA to a qualified charitable organization without paying any federal income tax on the distribution. Although the contribution isn't tax deductible, it does count toward your RMD for the year.

This tax break—sometimes called a "charitable rollover"—had expired and been reinstated several times. Thanks to the Protecting Americans from Tax Hikes (PATH) Act of 2015, however, the tax provision is

now permanent.

Under the PATH Act, someone who's at least age 70½—the age at which RMDs must begin—can instruct an IRA custodian to move up to \$100,000 of funds from that person's IRA to a favorite charity. A married couple can transfer up to \$200,000, assuming they're both old enough to begin taking RMDs.

Can't you accomplish the same result by taking a taxable IRA distribution and then donating that amount to charity? Not exactly. There are several other factors to consider, including annual limits on deductions for donations to charity, plus potential

tax return complications. What's more, the direct rollover is valuable to non-itemizers who aren't eligible to deduct charitable contributions. And this method is simpler.

There are, however, a few more details to attend to with this approach. To qualify for the tax exclusion, the distribution must be made directly from the IRA trustee to a qualified charitable organization. You're not allowed to use the funds temporarily before transferring them to the charity's coffers.

In addition, the contribution must otherwise qualify as a charitable donation. If the deductible amount

# Live Longer And Prosper In Your Golden Years

**A**re you part of the baby boomer generation that now is surging into retirement? Or are you a member of “Generation X,” which isn’t far behind? In either case, some traditional ideas about retirement no longer may apply.

For one thing, people now live longer than in the past, which means that their golden years will last longer, too. The average life expectancy for someone in the U.S. who now is age 65 is 84.3 years. And that number, which has grown steadily for many decades, is expected to go even higher.

Maybe the “new” 65 is 70 or even 75.

What is the main implication of this change? By living longer, it’s likely you’ll have to save more for retirement, or figure out ways to stretch your dollars further if you want to maintain a comfortable lifestyle. If you do nothing,



decreases because of a benefit received in return — for example, the value of a dinner at a fundraiser — or the deduction would not be allowed due to inadequate substantiation, you can’t take the exclusion.

A bonus is that you’re required to start taking RMDs in the year after the year in which you turn age 70½. If you take a charitable rollover, you can meet this obligation without paying the usual tax on an IRA distribution.

This tax law provision also applies

you could run the risk of outliving your retirement savings. You’ll also have a lot less, if anything at all, to pass on to your heirs.

Fortunately, there are several potential solutions to this dilemma. Consider these six options:

**1. Invest for the longer term.** You’re already in it for the long haul. But some additional tinkering with your investment portfolio

may allow your assets to last even longer. For example, you could minimize some risks of a market downturn by making sure you have a well-diversified portfolio. Of course, there are no guarantees against a loss of principal, especially in a declining market.

**2. Bulk up your 401(k) and IRAs.** Assuming you’re still working full-time, do whatever you can to boost your annual contributions to your 401(k) plan and IRAs. For 2017, someone age 50 or over can contribute a maximum of \$24,000 to a 401(k) and \$6,500 to an IRA. (The 2017 figures are \$18,000 and \$5,500, respectively, for younger savers.)



to Roth IRAs, though it may not be advisable to take this approach with a Roth. Roth IRA distributions to account holders over age 59½ are usually tax-

free, and it doesn’t make sense to use money that isn’t taxed to make a donation that isn’t deductible. But a portion of a distribution may be taxable if your Roth hasn’t been

in existence for at least five years. In that case, it might be reasonable to transfer the taxable amount directly to a charity. ●

Your IRA contribution could be split between a traditional IRA and a Roth IRA.

**3. Postpone Social Security benefits.** Although you can receive your full Social Security retirement

benefits at your “full retirement age” (FRA)—age 66 for most baby boomers—you’re entitled to even higher monthly benefits if you postpone taking benefits until as

late as age 70. This may be preferable if you expect to live a long time.

**4. Slow down RMDs.** After you reach age 70½, you normally have to take required minimum distributions (RMDs) from traditional retirement plans such as 401(k)s and IRAs. The minimum amount you must withdraw is based on your life expectancy and the account balance on December 31 of the prior year. If you can resist the temptation to take more than you’re legally required to you’ll preserve more of your assets for retirement.

**5. Consider the tax implications.** When you need to start withdrawing funds for retirement, where should you turn first? This is a complex decision that requires careful thought as far as taxes are concerned. For example, if you anticipate being in a higher tax bracket during retirement than you are now, you might withdraw funds from taxable accounts first and Roth IRAs last, so the Roth funds can keep growing tax-free. If you expect your tax bracket to plummet, you might do the opposite. Financial and tax advisors can help you devise a strategy that works for you.

**6. Work for a longer time.** If you still think your retirement is underfunded, you might postpone retirement by working full-time for an extra few years, or you could use the earnings from a part-time job to supplement your retirement income. Also, working longer may postpone RMDs. ●



# 4 Estate Issues For Business Owners

**E**state planning is essential for almost everyone, but it's especially important if you own a business. Your company may account for the majority of what you leave to your heirs. And while you may be years away from retirement, it's far better to get started sooner rather than later. Consider these factors that you may need to address in your estate plan:

**1. Succession plan.** This can have a ripple effect on other aspects of your estate planning. Do you plan to sell the business to an outsider, or perhaps to hand the reins to a member of your family? If you're grooming a family member for the top spot, it's a good idea to make that clear to everyone involved. Similarly, if power within the company is to be shared among several family members, spell out how that will work. Establish how much control you may want to keep, and make sure you document the arrangement so there won't be misunderstandings.

**2. Buy-sell agreement.** A buy-sell agreement may work hand in hand with a succession plan. A buy-sell agreement is a contract between a company's co-owners or shareholders

specifying what will happen if a principal dies or is disabled. The main benefit is that such an agreement establishes a value for the business, which may be helpful for various purposes—for example, if someone wants to buy or sell shares from or to another co-owner.

**3. Estate taxes.** The specter of potential tax consequences often lurks in the background for small businesses. Even with the generous federal estate tax exemption (\$5.49 million in 2017), your heirs may face tax complications, especially on the state level.

Because most businesses have a minimum of cash on hand to pay estate taxes, the company might have to be sold to satisfy federal or state obligations. Estate tax returns are generally due within nine months of death, so make provisions now to avoid a distress sale in the future. And find out what tax breaks could benefit

the estate—for instance, a federal tax law provision that allows deferral of estate tax payments when a business interest comprises at least 35% of a taxable estate.

**4. Life insurance.** One way to avoid a forced sale of a business is to secure adequate life insurance protection for the owner or co-owners. Proceeds from a life insurance policy can be used to pay estate taxes, debts,

or other business obligations when an owner dies. Life insurance also may be an essential part of a buy-sell agreement. Depending on your needs, you might choose a

form of whole life insurance, term insurance, or another variation.

To avoid problems down the line, consider all of the estate planning implications of owning your business. We will be glad to assist you with the specifics based on your personal circumstances. ●



## The Core Of An Estate Plan

*(Continued from page 1)*

used for a wide range of purposes, including (but not limited to):

- Dividing your assets and allocating them to your beneficiaries;
- Naming guardians for your children;
- Achieving estate tax benefits;
- Arranging gifts to charity;
- Creating trusts for your beneficiaries;
- Excluding certain family members from inheriting your assets;
- Avoiding a lengthy probate process; and
- Thwarting potential legal challenges.

A will may refer to other documents in your estate plan. If you don't have a legally valid will and you die "intestate," your estate will be governed by the laws of the applicable state.

**5. Revocable trusts:** Finally, your estate plan may include more revocable trusts, which let you change terms based on future events or preferences. Such trusts are commonly called living trusts—or, more technically—inter vivos trusts—because you create them while you are alive.

With a revocable living trust, you can transfer assets to the trust to

be managed by a party you designate. The transferred assets aren't subject to probate.

Other kinds of trusts can also be created to complement the rest of your estate plan. These trusts might be designed to minimize potential state or federal estate taxes, as well as to protect assets from creditors or in the event of a divorce.

This list of estate planning basics can be a good starting place for many families. You'll need the help of an experienced attorney and other advisors to create a plan that fits your family's needs. ●

