Life Cycle of Estate Planning

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Introduction

• Importance of thinking about estate planning at a relatively young age
• Like everything else, estate planning changes as you move through different life stages and your priorities/needs change
  — Ensuring your intentions will be carried out
  — Major changes to personal and financial situation
    o Marriage/divorce/changes in relationship status
    o Addition of children/loss of family members
• Other reasons to focus on estate planning
  — Tax law changes
  — Change of domicile
  — Inheritances or other infusions of wealth
Backdrop

• What happens if you die without a will and having done no estate planning?
• The intestacy statute of your state of residence governs disposition of your assets
• The size of your estate and who the recipients are will determine whether your estate owes estate taxes
Massachusetts Intestacy Statute

- Have children but no spouse: Children inherit everything
- Have spouse but no descendants or parents: Spouse inherits everything
- Have spouse and descendants (and neither decedent nor surviving spouse have any descendants outside of the marriage): Spouse inherits everything
- Have spouse and descendants (and either or both of decedent and surviving spouse have descendants outside of the marriage): Spouse inherits first $100,000 and ½ of everything else; decedent’s children inherit balance
- Have spouse and parents but no descendants: Spouse inherits first $200,000 and ¾ of everything else; parents inherit balance
- Have parents but no spouse or descendants: Parents inherit everything
- Have siblings but no spouse, descendants, or parents: Siblings inherit everything
Estate Taxes

• At what level of wealth are estate taxes a concern?

• Federal Estate Taxes: Each person has an exemption from federal estate/gift tax of $5.45mm (this amount is indexed for inflation)
  — Above this level federal estate tax is 40%

• State Estate Taxes
  — Exemptions and rates vary state by state
  — In Massachusetts the first $1,000,000 (approximately) is exempt from tax; above this level the MA estate tax is between 5-16%

• Amounts passing to a surviving spouse or to charity are not subject to estate tax
30s to 40s

- People often execute first set of estate planning documents upon marriage/birth or adoption of child
- Wills
  - “I love you” Wills
  - Appointment of personal representative, guardians and other fiduciaries
  - Tax planning generally less of a focus
- Accompanying revocable trust
- Durable power of attorney
- Health care proxy
- Homestead
- Life insurance and advantage of life insurance trusts
40s to 50s

- Planning for health and education expenses
  - College savings plans
- Annual exclusion gifts
- Vacation home
- Reassess original estate plans
  - Are guardians and other fiduciaries still appropriate?
  - Have changes in financial situation necessitated more sophisticated tax planning?
  - Other changes in family situation
    - Divorce
    - Second marriage
- Life insurance
- Retirement saving
50s to 70s

• Consideration of larger wealth planning techniques
  — Use of lifetime exemption from gift and estate tax
  — Advantages of trusts
  — Charitable planning

• Advantages and disadvantages of transferring wealth early
  — Appreciation out of estate v. step-up in basis at death

• Discussion of planning with next generation
  — Finances/expectations
  — Consideration of pre-nuptial agreements
50s to 70s (continued)

- GST planning and arrival of grandchildren
- Business planning
- Techniques for planning with real estate
- Planning for art, antiques and collections
- Long term care insurance
- Retirement planning
70s to 90s

• Retirement elections
  — Beneficiary designations
  — Using IRA to make charitable gifts
• Reassess estate plans (non tax reasons) - have there been changes to overall situation?
  — Incapacity planning; durable power of attorney and health care proxy
  — Domicile change?
  — Are fiduciaries still appropriate?
70s to 90s (continued)

• Reassess estate plans (tax reasons)
  — Continue to consider lifetime giving to minimize estate taxes
  — GST planning
  — Charitable planning
  — Inheritances and disclaimers
• Consider funding revocable trusts to minimize probate process
• Continue to consider lifetime giving
70s to 90s (continued)

- Revisit insurance policies – still necessary/efficient?
- Long term care planning
- Organization of personal and financial information
Conclusion

- Importance of having an estate plan and revisiting it over time
- Considerations vary dramatically depending on life stage
- Questions