

# A SUNY BLENDED GIFTS COUNCIL PRESENTATION



**BLENDED GIFTS COUNCIL**

The State University  
of New York



# Estate and Charitable Planning in a Challenging Environment

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# Agenda

- Planning Overview
- Basic Estate Planning Documents
- Tax & Non-Tax Considerations
- Charitable Planning



# Planning Overview



# Planning in a Changing World

- Historic economic meltdown resulting from global health crisis
  - Higher client interest in their estate and financial plan
  - Volatile financial markets
  - Low asset values for transfer tax purposes



# Planning in a Changing World (cont.)

- Favorable tax environment
  - Historically large estate and gift tax exemptions
  - Relatively low income tax rates
- Historically low interest rates
- What does the future hold? Probably –
  - Higher asset values
  - Higher taxes
  - Higher interest rates



# Basic Estate Planning Documents



# Lifetime Documents

- Power of Attorney/Statutory Gifts Rider
  - Who should be agent?
    - Spouse; adult children; other
    - Successor agents
    - Co-agents
  - General Durable v. “Springing”
- Health Care Proxy/Living Will
  - Sole agent
  - Successor agents
  - HIPAA Authorization



# Last Will & Testament

- To whom?
  - Family
  - Charities
- How?
  - Outright
  - Trusts
- Caretakers
  - Executor
  - Trustee
  - Guardian





**Q & A**



# Tax & Non-Tax Considerations



# Estate Tax Considerations

- Federal Estate & Gift Tax Exemption
  - \$11.58 million (\$23.16 million for married couple)
  - Portability
- NYS Estate Tax Exemption
  - \$5.85 million
  - “Cliff”
  - No portability
  - No gift tax – 3 year rule
- Annual Gift Tax Exclusion
  - \$15,000 per person
  - Tuition and medical expenses
- Democratic Proposals
  - \$3.5 MM estate tax exemption/\$1.0 MM gift tax exclusion



# Income Tax Considerations

- Federal ordinary income tax rates range from 10% to a top tax rate of 37%
- Capital gain/Qualified dividend tax rates range from 0% → 23.8%
- Also need to consider state resident income tax rates and rules

# Basis Planning “Trumps” Estate Tax Planning

- Don't gift appreciated assets
- Reverse prior gifts
  - Terminate trusts
  - Distribute appreciated trust assets



# Asset Protection Planning

- Trusts protect against:
  - Inability
  - Disability
  - Creditors
  - Predators
- Types
  - Lifetime
    - Revocable
    - Irrevocable
  - Testamentary (“At death”)



# Probate Avoidance Planning

- ITF “In trust for”
- POD “payable on death”
- TOD “transfer on death”
- Joint with Right of Survivorship
- Life estate deed
- Revocable trusts







# Beneficiary Planning

- Life insurance, retirement accounts and annuities
- Confirm primary and contingent/successor
- Coordinate with estate distribution plan, e.g. will, trust
- Consider charities as retirement plan beneficiaries

# Long Term Care Planning

- Self pay
- Insurance
- Medicaid





**Q & A**



# Charitable Planning



# Charitable Thoughts

- TCJA Changes
  - Lower income tax rates
  - Larger standard deduction; less itemizers
  - Increased AGI limit – 60%
- SECURE Act Changes
  - Elimination of “Stretch IRA” – 10 yr. rule



# Charitable Thoughts (cont.)

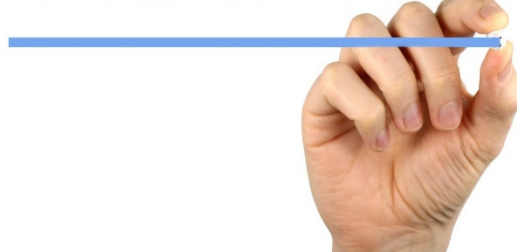
- CARES Act Changes
  - 100% of AGI limit for 2020
  - \$300 (\$600 for MFJ) “above the line” deduction
  - No RMD requirement for 2020
    - Impact on QCDs?



# Charitable Gifts

- Current Gifts
  - Cash
  - Securities
  - Matching Gifts
  - Life Insurance
  - Qualified Charitable Distribution (“QCD”)

CHARITY





# Charitable Gifts (cont.)

- QCD Requirements
  - \$100,000 annual limit
  - From any type of IRA, other than SEP or SIMPLE
  - Direct from trustee to charity
  - After age 70 ½
  - No charitable deduction allowed
- Major tax benefit for non-itemizers
  - Contribute RMD





# Charitable Gifts (cont.)

- Deferred Gifts
  - Bequests
  - Life Insurance/IRA Beneficiary
  - Remainder Interest in Real Estate
  - Charitable Gift Annuity
  - Charitable Remainder Trust
  - Charitable Lead Trust
  - Charitable LLC – “Chan Zuckerberg, LLC”



# Charitable Planning with Retirement Assets

- Use of IRA & 403(b) to satisfy charitable bequests
  - Estate tax charitable deduction
  - No income tax cost to estate or charity
- Name charitable remainder or lead trust as beneficiary of qualified plans
- Non-retirement assets eligible for stepped-up basis or Roth accounts may be better-suited bequests for heirs
- Coordinate with Plan Custodian

# Charitable Planning with Retirement Assets – Example

**EXAMPLE:** Assume Mary Donor has a \$1 million estate that she wants to leave in equal shares to her niece and her Favorite SUNY School Foundation. The estate consists of a \$500,000 investment account and a \$500,000 IRA. Her current estate plan leaves her investment account to her Favorite SUNY School Foundation under her will and names her niece as beneficiary of her IRA. Here's the result:

	<u>Niece</u>	<u>Favorite SUNY School Foundation</u>
Investment Acct		\$500,000
IRA	\$500,000	
Income Tax @40%	<u>\$200,000</u>	<u>\$ 0</u>
Net Inheritance	\$300,000	\$500,000

What if instead Mary leaves the investment account to her niece under the will and names her Favorite SUNY School Foundation as beneficiary of the IRA:

	<u>Niece</u>	<u>Favorite SUNY School Foundation</u>
Investment Acct	\$500,000	
IRA		\$500,000
Income Tax @40%	<u>\$ 0</u>	<u>\$ 0</u>
Net Inheritance	<b>\$500,000</b>	\$500,000

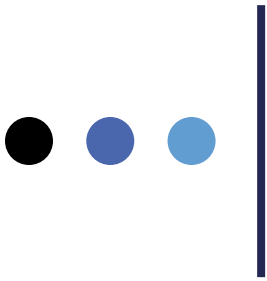
# Final Thoughts

- Don't Procrastinate!
  - We are talking about protecting your family.
- Communicate with Family!
  - Avoid surprises at a later date.





**Q & A**



# Lavelle & Finn

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