Estate planning strategies

How the economy makes this a great time to transfer assets **Interviewed by Sue Ostrowski**

The decreasing value of assets in a down economy may make this the ideal time to review your estate plan. At a time of lower interest rates and lower business valuations, beginning to transfer assets out of your estate now can benefit both you and your beneficiaries, according to Mary Jo Lockshin, a partner at Stark & Knoll LPA.

"For those who are going to transfer business assets or make gifts through a trust — whether for an individual or a charity — the current economic conditions, with low interest rates and values, present the ideal opportunity for gifting assets," says Lockshin.

Smart Business spoke with Lockshin about why now is a great time to review your estate and succession plans and how establishing trusts can help ensure your legacy for generations to come.

Mary Jo Lockshin
Partner
Stark & Knoll LPA

What should you consider when reviewing your estate plan?

It's important to consider whether there have been any changes in your family situation, such as the birth or death of a family member, a change in marital status, or a change in the financial situation of a beneficiary. Also, look at who gets what to see if those provisions still reflect your intent.

How can a down economy help you and your beneficiaries get more out of your estate?

When the values are lower in a closely held business, you can gift a greater number of shares or a greater percentage of interest in the company. If a gift is made when the value is lower, you succeed in getting more assets out of the estate of the original owner and having the assets transferred to someone in the next generation. This may ultimately result in paying less estate tax.

Also, lower interest rates free up more money for people to have an incentive to invest, especially in regard to certain planning vehicles. And financially, it makes it more advantageous to administer certain types of trusts that are dependent on interest rates.

Can you set up estate planning vehicles on your own, or does doing so require professional help?

It's always best to have a professional involved because estate planning and business succession documents are legal documents that should be drafted by an attorney.

There are a lot of forms on the Internet, but state law governs estate planning and probate, and much of the information online is not specific to Ohio law.

And if you're missing even one small clause or you have the incorrect information regarding Ohio law, you could cost your family members a substantial amount of money to undo the damage done by having poorly drafted estate planning documents. It's a good investment to have your documents drafted by an estate planning attorney from the very beginning.

What information should you have available to share with your estate planner?

Information is required regarding assets and income needs, as well as long-term goals regarding where you would like to leave your estate when you pass away. To the extent that you have that information readily available, it makes the process much easier and can save you time and money because the attorney won't have to spend time digging for that information.

It is also beneficial to know if there are certain purposes for which you would like to leave the assets rather than giving assets outright to beneficiaries because trusts are the primary means of leaving the benefit of an estate to future generations without relinquishing complete control to them.

What are the advantages of using a trust as a vehicle for estate planning?

You first need to consider whether you should be making gifts of your estate through your estate plan or whether it would be more beneficial — not only to you but to your beneficiaries — if you leave your assets in a trust.

Trusts are a very effective mechanism for transferring the benefit of your estate to your beneficiaries while maintaining control of your estate. It's the only way that your assets can be controlled after you pass away, because a will makes a gift of your assets, and once those assets are in the name of a beneficiary, they can do anything they want with them. Also, the more control a beneficiary has over the assets, the more likely that those assets will be taxed or will be lost in a divorce or lost to a creditor or bankruptcy issue.

Trusts are very effective estate planning tools, not only for minimizing taxes but also for maintaining control of your assets for generations to come. You can designate in the trust the purpose for which the assets must be used, such as health, education, maintenance and support.

It's a good tool for preserving assets, but it's also a good tool for protecting the beneficiary from circumstances that may be outside their control. For example, there may be a beneficiary who is easily influenced, and a trust can protect that person from losing money to scams. A trust can also keep assets in the bloodline in case of divorce and can protect government benefits that might be jeopardized by an outright inheritance.

Why is a down economy a great time to transfer assets?

This may be the absolute best time to either gift or sell assets to other family members. For example, take someone who owns a Florida vacation home and the value has decreased from $600,000 to $300,000. The main benefit of getting it out of that person's name by a gift or sale is that at most you're using up to $300,000 of your unified exclusion. With proper planning you might even be using a lot less than that. If over time the property goes back up in value, all of that appreciation is out of your estate. That can be said for a vacation home or ownership in a business. Now is the time to at least explore estate planning to ultimately lower taxes and leave more of your estate to your loved ones. <<

MARY JO LOCKSHIN is a partner at Stark & Knoll LPA. Reach her at (330) 572-1313 or mlockshin@stark-knoll.com.