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Eight Essentials to Avoid Family Conflicts During Estate Planning

On January 3, 2013, President Obama signed the American Taxpayer Relief Act which permanently raised the unified gift and estate tax exemption amount to $5 million, subject to annual inflation rates. The Act also permanently provides for a maximum estate tax rate of 40% for descendants who pass away after 2012. For high-net-worth families and those with closely held family businesses, this means reviewing estate plans and seeking vehicles to mitigate tax exposure are essential.

At Banta Asset Management we are mindful generational wealth distribution can often cause family disruption leading to costly and lengthy litigation with no clear winners. From our experience, family litigation occurs not from a lack of trying to solve the issue, but from a lack of planning. Below are key steps to help take advantage of potential tax cuts, as well as, to avoid family battles over wealth transfers.

1. **Avoid the Concept of "Fairness"**

   One of the most common conflicts erupts when parents try to protect and keep a legacy asset in the family, such as a business or a home. For example, if one sibling is invested and interested in the family business, while the other sibling is not interested, splitting the business "fairly" between the two siblings is likely to cause tension, unnecessary disagreements, and legal battles down the road. A solution may be to allow the interested sibling ownership while dispersing other assets to the non-interested party.

2. **Protect Family Assets**

   Personal needs may be different. Consider the age and needs of each beneficiary individually. Age, personal interests, and even disabilities may affect the means chosen to disperse family assets. For example, an individual can receive income for life and have a trustee appointed to manage his financial future. A trust can be set up to protect both the individual and the family assets.

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3. **Make major decisions with every family member in the room**

   When it comes to transferring assets or discussing the future, the entire family needs to be included in the process. Not doing so can lead to family tension and legal battles in the future. Openness and transparency prevent unnecessary misunderstandings or resentment among the family members.

4. **Do not wait for the original founder of the family business, or a parent, to pass away**

   Remember this simple fact – Talk Now! Better outcomes will result by discussing the future now. Many problems arise after passing of the matriarch or patriarch. There is no good reason to wait until this time to begin planning for wealth distribution. Failing to address issues today can be costly in the future.

5. **Treat estate planning as an ongoing process**

   Families have life-changing events – marriage, children, divorce, sale of a business – each with potential changes. Consider these events for "milestone reviews".

At Banta Asset Management, we have always believed **communication and coordination** are important aspects of our overall strategy for making estate planning successful. When planning your estate, do not delay discussions about inheritance and wealth transfers. Many of our clients have had honest and open discussions with family members, leading to the transition of their estates. As a result, families have been able to move forward following the passing of their loved one with the least amount of strain and conflict.

With continued confidence,

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