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Market Turbulence Forcing People to Reassess Gifting, Wills and Estates

By Andrew Leckey, Tribune Media Services,
Successful Investing
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Turbulent financial markets haven't squelched generosity altogether in 2011, but they do have Americans thinking long and hard about the importance of their assets.

They are reconsidering financial gifts to family members, recalculating value of their property, and reassessing financial components of their wills and estate plans.

Uneasiness permeates just about everything to do with their money.

"There's a little less gifting taking place now because people are feeling less wealthy," said Bernhard Aaen, attorney and accredited estate planner in Redlands, Calif. "I've lately had very wealthy people with modest lifestyles become very worried that they are going to outlive their money -- even though they still have large amounts of money in reserve."

A positive result of markets in turmoil and a weak economy is the fact that concerned individuals are actually dusting off their estate plans and reading them again, he said. The other day, one of Aaen's clients came in with an estate plan done 10 years ago to make changes based on new circumstances in the family's situation that had been overlooked.

It is essential that there will be adequate cash reserves to manage the estate plan one day, Aaen said. You don't want your heirs to be forced to sell property -- especially in a down real estate market -- due to lack of funds, he said.

He recalls one estate plan he encountered that was completely illiquid, with no money in the plan to pay mortgage or taxes on the home before it could be sold. The deceased person's annuity beneficiaries were her children, so that money went straight to them rather than the estate. As a result, the corporate trustee named in the plan refused to take it on.

"The primary concern of people seems to be not giving their money away, since they realize financial markets can change significantly," said Thomas Haeuser, attorney and accredited estate planner in Sonoma, Calif. "Unless people are very wealthy, they should sit on their money until they die because they can't really afford to give a lot of money to their children before then."

Many people feel they don't have the money to pay lawyers to do estate plans for them, he added. Younger individuals feel it is not a priority in the current economic climate, while older folks worry over whether they themselves have enough money to keep going.

Haeuser encourages clients to have percentages for beneficiaries in estate plans so that, no matter what happens in the market, everyone retains their same percentage of total assets. The wealth you think you're going to leave to your children can get used quickly by medical and other concerns in old age, so specifying specific dollar amounts is a bad idea, he believes.

The value of your estate, which includes all your assets, is the fair market value of your property after your debts are deducted. You should re-examine the value of your holdings to see if any proportions need to be revised.

"More than discussing the market turmoil, the clients coming in now want to discuss the change in estate taxes for 2011 and 2012," said Haeuser. "These changes mean a whole lot fewer people need to worry about estate taxes."

Those changes: The federal estate tax exemption is $5 million for 2011 and 2012, and the estate tax rate for estates valued over this amount is 35 percent. Furthermore, everyone has a $5 million lifetime gift tax exclusion amount and a 35 percent gift tax rate. There is "portability" of unused exemption between spouses, meaning that a husband and wife together have a $10 million exemption. The unused portion can pass between spouses without any special estate planning required.

"Whether the stock market goes up or down, you still need a plan," said Linda Kanter, enrolled agent and president of Kanter Tax & Trust Consulting Inc. in Naperville, Ill. "Your estate plan should not be driven by the market value of assets in the account because changes in the value of securities happen all the time."

Estate planning can seem an overwhelming and somewhat depressing process because people prefer not to think about what happens when they die, Kanter said. Many also find it daunting to go through all their assets and put them in the trust they've created. However, it's worse for your loved ones if all the assets wind up in probate and not distributed as you intended, she said.

"You don't change an estate plan because the stock market drops 400 points in one day, for an estate plan is designed to have a very long time horizon," said Haeuser. "Most of the time, the reason to change an estate plan is because a family dynamic has changed -- someone having died, someone becoming disabled or a relationship changing."

Update the beneficiary designations in individual retirement accounts, 401(k) plans, life insurance policies and annuities. Individuals often fill out account beneficiary information on a company form when beginning a job and forget about it. Sometimes people also completely forget which of their accounts are jointly held. Remember that money in a jointly held account goes directly to the survivor.

If you want final wishes carried out, you must follow through, monitor and fund the estate plan you've created, said Kanter.

(Andrew Leckey answers questions only through the column. Address inquiries to Andrew Leckey, 555 N. Central Ave., Suite 302, Phoenix, Ariz. 85004-1248, or by e-mail at andrewinv@aol.com.)