HOLDEN & MICKEY, INC.
Investment & Insurance Advisors
Serving Clients Since 1930

September 2021 | Vol. 9 No. 3 | Quarterly Updates

# Potential Estate Planning Law Changes

The COVID virus has altered the estate planning landscape. The change in political control, increasing national debt, and income inequality have changed the expectations for the estate tax. Bills have been proposed to reduce the current estate tax exemption of $23.4 million (combined married couple) to $7 million. The proposed waiver of capital gains tax at death (loss of the step-up in basis) looms large for many families as well. The lifetime gift exemption has also been recommended to decrease significantly.


Many of our clients own life insurance and it is usually held in their taxable estates. Establishing third party ownership of existing or new life insurance is a tax-efficient method of reducing estate tax liability. Some clients and advisors at Holden & Mickey have made significant lifetime gifts of insurance this year in efforts to avoid potential future estate tax.

In light of these proposed changes, we encourage our clients to review their estate plans. Regardless of whether these potential changes affect your situation, we recommend that our clients review their estate plans every 5 years or if they have a significant life change. We are happy to introduce you to an estate planning attorney if you have a need. Please let us know if you would like to learn more about your options.

**The information provided is not written or intended as specific tax or legal advice. Holden & Mickey, its employees and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel. Individuals involved in the estate planning process should work with an estate planning team, including their own personal legal or tax counsel.**

About Us:
*Holden & Mickey, Inc. designs, implements, and monitors financial plans for high net worth individuals. Our firm has been working with clients in this area since 1930. Holden & Mickey advisors are highly credentialed and multi-generational in their focus on wealth management.

Holden Mickey, Inc

336-724-1810
www.holdenmickey.com

Holden & Mickey Principals

Lawrence N. (Chip) Holden, CLU®, ChFC®
lholden@holdenmickey.com

John E. Mickey, CLU®, CLTC
jmickey@holdenmickey.com

Gerald M. (Gerry) Malmo, III, CLTC
gmmalmo@holdenmickey.com

David L. Holden, CFP®, CLU®, ChFC®, CLTC
davidholden@holdenmickey.com

Steven H. Davis, CEPA
sdavis@holdenmickey.com

Brian J. Holden
brianholden@holdenmickey.com


Capital Towers
4350 Congress St., Suite 300
Charlotte, NC 28209
(704) 557-9600

# Estate Planning After a Second Marriage

*Special considerations for a complex situation.*

**Marrying again makes estate planning more involved.** How do you provide for everyone you love? Should you provide for everyone you love? How do you arrange to transfer wealth in a way that won't hurt the feelings of certain heirs?

**If you have not planned your estate yet, take inventory.** Spend a half-hour and jot down the assets you own, major and minor. Who should own these assets after you die? Your spouse should do this, too – and you should talk about your preferences. It may not turn out to be the easiest conversation, but agreement now may preclude family squabbles and legal challenges down the line. (If you have a prenuptial agreement in place, you may have already discussed some of these matters.) You should also consider two scenarios – what happens if you die first, and what happens if your spouse dies before you do.

If you and/or your spouse have children from prior marriages, there may be some dilemmas for each of you. If you die, there is a real possibility that your current husband or wife will not elect to provide for your children from past marriages. So what might you do to prepare for that possibility? You might make a child the primary beneficiary of a life insurance policy, or set up a trust for your kid(s), or place certain real property under joint ownership with a child.

**If you have already written a will, it will probably need revisions.** They could be considerable. You want to be extremely specific about which heir gets what; you need to state bequests convincingly, because the more convincing your bequest, the less ambiguity.

**How up-to-date are your beneficiary designations?** Out-of-date beneficiary decisions are an Achilles heel of estate planning. Be sure to review them; you may want to revise beneficiary forms for retirement plans, investment accounts, and insurance policies.

As you consider these revisions, pay particular attention if you have been divorced. Divorce may actually preclude you from changing beneficiaries in certain cases. Turn to a lawyer and show the lawyer a copy of your divorcee decree; ask if revising your beneficiary designations will violate it. Should you be unable to make beneficiary changes to your life insurance policy, you may want to buy another one in consideration of your new spouse.[1]

**Take a look at irrevocable trusts.** They can be used to provide for your spouse as well as your kids. Some people establish a separate property trust to provide for their spouse after their death while directing most or all of their real property to their children.[2,3]

*continued on page 3*

*continued from page 2*

Alternately, parents create irrevocable trusts to direct assets to particular children. They are attractive estate planning vehicles for a number of reasons. A trust agreement is a private mechanism for wealth transfer, while a will is a public document (and some parents who have remarried would rather their wills not be made public). Assets within irrevocable trusts are shielded from creditors, and also from inheritance claims of spouses of the adult children named as heirs. An irrevocable trust represents a "finalized" estate planning decision, one that ensures that particular assets transfer to a parent's biological children. Irrevocable trusts are also rarely undone. It typically takes permission from beneficiaries (and a judge) to reverse them.[4]

**Those aforementioned pre-nups can play an estate planning role as well.** They allow you to designate personal assets (such as assets within a college savings account) for existing rather than future children. Post-nuptial agreements (similar to pre-nups, but drafted after a marriage) can also accomplish this. Some states do not view pre-nup and post-nup agreements as legally valid, however – and sometimes carrying out the terms and conditions of these agreements is up to a judge.

**Be sure to consult legal & financial professionals.** When estates become this complex, collaboration with professionals having a thorough understanding of estate planning and tax issues is essential.



**Citations.**

**1 - elderlawanswers.com/redo-your-estate-plan-when-you-remarry-5477 [12/29/14]**
**2 - nolo.com/legal-encyclopedia/estate-planning-blended-family-29665.html [8/7/15]**
**3 - tinyurl.com/ohqsvro [8/14/15]**
**4 - blogs.wsj.com/totalreturn/2015/03/18/for-blended-families-consider-prenups-and-trusts/ [3/18/15]**

# Year-End Estate Strategies

*What you need to know to get ready for the end of the year.*

With one year ending and a new one on the cusp of starting, many people will consider their resolutions—not their estate strategy. But the end of the year is a great time to sit down and review your preparations, especially when you're spending more time with your loved ones; even more important if you have a complicated estate that may need to get managed after you're gone.

**Call a family meeting.** Many people don't let their family know their wishes or who is appointed to handle the estate. While two-thirds of Americans say that the pandemic has brought them closer to their family, only 28% of those 65 and older have started discussing their estate strategy with their families.[1,2]

You may be able to get ahead of any potential family issues down the line by discussing your wishes, what needs to be handled by your estate, and reviewing what you have in place. No one wants to think about their family members passing away, but an awkward conversation now may mitigate future problems.

**Get organized.** Ensure that your documents are up to date and remain aligned with your wishes. Two things to consider are a financial power of attorney and a power of attorney for your healthcare needs. Both can play a role should you become too ill to make decisions.[2,3]

Also, consider adding "Transfer on Death" or "Pay on Death" to ensure that your spouse or surviving relatives can have access to your accounts.[2,3]

**Be flexible.** Tax law changes adjust and change over time. For example, the SECURE Act, which went into effect at the end of 2019, did away with "stretch IRAs." The change forced some to consider a new approach to that portion of their estate. Your estate strategy should be flexible enough to adjust to whatever happens.[4]

As you talk about your estate with your family and set your preparations in motion, the end of the year is a great time to connect with your financial professional, tax attorney, and estate attorney.



**Citations**

**1. News.BloombergTax.com, August 21, 2020**
**2. NYTimes.com, September 6, 2020**
**3. Kiplinger.com, June 16, 2020**
**4. CNBC.com, June 30, 2020**

Holden Mickey, Inc

Holden & Mickey, Inc
100 N Cherry St
Suite 500
Winston Salem, North Carolina
27101

www.holdenmickey.com

Tel:336-724-1810
Fax:336-724-2118