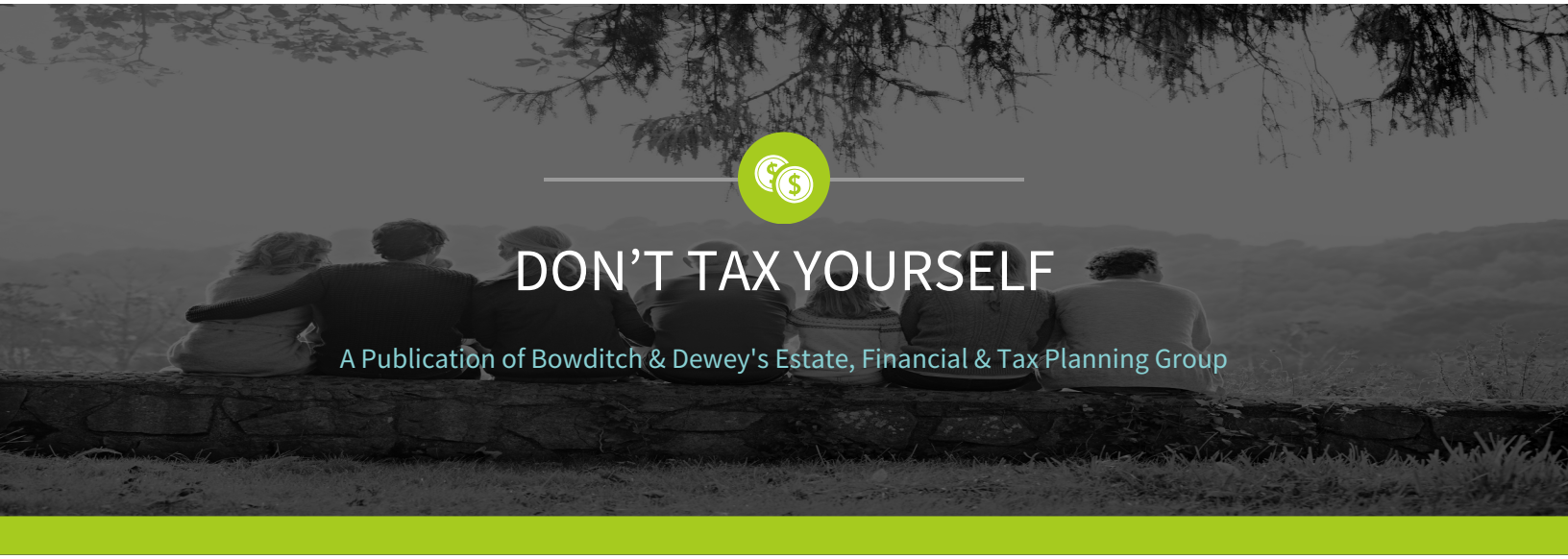

DON'T TAX YOURSELF

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Beyond Taxes: 10 Important Reasons Why Everyone Needs an Estate Plan

BY BOWDITCH & DEWEY • JUNE 1, 2023

People often assume that if their estate isn't taxable, they don't need to have an estate plan. In 2023, a Massachusetts estate tax return must be filed if the value of the deceased person's gross estate exceeds $1 million. A federal estate tax return must be filed if the value of the assets exceeds $12.92 million in 2023 (or $25.84 million per married couple.)

While reducing potential estate taxes is one important goal for creating an estate plan, there are many other factors to consider beyond tax savings. In addition to reducing taxes, a thoughtfully prepared estate plan helps you maintain control over your assets at your death or incapacity, safeguards your privacy, and provides guidance for your care as well as the care of your loved ones.

The following is a list of ten important reasons to create an estate plan, beyond minimizing estate taxes:

1. Maintaining Privacy and Avoiding Probate

Having an estate plan can help minimize the probate process, which can be expensive, time consuming and lead to loss of privacy. The probate process can take up to a year, if not longer, and anyone can access information and documents from the Probate Court. With proper planning, you can avoid the delay and cost of probate and keep your estate's details private.

2. Protecting Minor Children

In a well-drafted will, a parent may nominate a guardian to take care of any minor child the parent has or may have in the future. Nominating a guardian in the will ensures that any minor children will be cared for by the people you have chosen if both parents die before the children turn 18. Without a will in place that nominates a guardian, the Probate Court will decide who looks after your minor children without any guidance from you.

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3. Providing for Your Spouse and Other Beneficiaries

An estate plan allows you to make decisions about how your assets will be distributed after your death or incapacity, ensuring your wishes are followed. A properly drafted will and trust ensure that your assets will be distributed to your intended beneficiaries after your death. Otherwise, the applicable statutes will determine who will benefit from your estate, which might be contrary to your own wishes. For example, you may want to make sure that your spouse and children or other loved ones are provided for adequately.

4. Planning for Blended Families

Estate planning can help ensure that your assets are distributed according to your wishes, especially in the instance of a blended family. For example, a parent may desire to leave a different inheritance to biological or adopted children than to stepchildren, or to protect their biological or adopted children's inheritance in the event that a spouse remarries.

5. Special Needs Planning

If you have a beneficiary with special needs, a "special needs trust" or "supplemental needs trust" can be created as part of your estate plan to ensure that the beneficiary continues to qualify for public assistance such as MassHealth or Social Security and Supplemental Security Income (SSI).

6. Creditor Protection

By placing a child's inheritance in trust for the child's benefit, you may be able to shield those assets from the child's creditors, such as an ex-spouse, ensuring that assets are used for the benefit of your child or grandchildren.

7. Providing for Pets

Estate planning can include provisions for the care of your pets after your death, including the creation of a pet trust to cover their expenses.

8. Planning for Your Incapacity

Through documents like a durable power of attorney, health care proxy, living will and trust, you can designate individuals to manage your assets and make decisions on your behalf if you become disabled or incapacitated.

The person you appoint as your attorney-in-fact under your durable power of attorney has the authority to make legal and financial decisions for you if you are physically or mentally incapacitated, or simply if it would be more convenient for you.

By creating a revocable trust and funding it during your lifetime, you can make sure your assets will be used for your benefit and managed according to your wishes if you become incapacitated. The successor Trustee(s) of your trust will control and continue to manage the trust assets for your benefit when you can no longer serve as Trustee.

9. Charitable Giving

If you desire to make charitable gifts at your death, there are many ways to incorporate these philanthropic goals into your estate plan. Charities can be named as beneficiaries in a will or trust, or as a designated beneficiary on bank accounts and certain retirement accounts.

10. Business Succession

If you own a family business that you plan to keep in the family after your death, part of your estate plan might involve business succession planning to plan for the death or retirement of a key partner and to make it easier to transfer the

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business' assets to your family members after your death.

It's important to consult with a knowledgeable estate planning attorney who can provide personalized guidance and help you determine the most appropriate estate planning strategies for your unique circumstances. They can also ensure compliance with state laws and address any unique estate planning needs or concerns you may have.

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