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Estate Planning for the Wealthy – Act Before it's too Late

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In the first of a two-part series, I will list the key reasons for advisers and clients to be actively engaged in estate planning.

Although estate duties in Singapore have been abolished since 2008, estate planning remains a very important aspect of a family's overall financial well-being. Without it, a client could lose a sizeable chunk of their overseas assets to foreign estate taxes upon death.

And if they were the key person in their business, their bank loans could be abruptly recalled upon their demise, and jeopardise the viability of the firm they used to manage. Proper estate planning is necessary to avert such negative scenarios.

Estate planning is not just about tax avoidance. It is the process of organising an individual's properties to ensure they are maximised for personal benefit as well as for the benefit of future beneficiaries.

Why do estate planning?

Estate planning is not just about avoiding taxes or writing a will. The most compelling reasons for one to engage a professional in estate planning are as follows:

- To provide income to maintain a standard of living
- To provide liquidity for creditors, transfer fees, funeral expenses, etc
- To provide for mental or physical incapacity in managing one's affairs
- To preserve family legacy for future generations
- To arrange for business continuity
- To arrange for a business buy-sell agreement
- To provide gifts for selected employees
- To provide special gifts for non-heirs
- To create research/charity foundations

With proper estate planning, not only our loved ones but our loyal friends and trusted colleagues can also be well taken care of.

What is estate planning?

Estate planning concerns transferring the ownership of private property, which involves the creation, accumulation, preservation and distribution of assets upon death. The challenge is to see that the whole estate plan is constructed in the most effective and tax-efficient manner, taking into consideration the dynamic jurisdictions of different countries, where one's assets are located, and place of domicile.

Even if one is wealthy, he cannot assume that his estate is sufficient to fund all his wishes when he is deceased. This stage requires one to obtain an estimate of the aggregate amount of funds required to sufficiently meet his concerns. Common examples include spouse's retirement, children and/or other descendents' education, living and even retirement needs, and gifts to charities. Such provisions can be made for the next 40 to 100 years and can cost millions of dollars. Therefore, it is always wise to identify the capital funding required, and then work on a wealth creation and accumulation plan if there are any shortages.

Estate creation and accumulation

Estate creation refers to the source or methods of creating wealth. It could typically be using company or life insurance to create instant wealth for the family upon death. Any fund shortages will need to be met through an estate accumulation, which refers to the process of savings and the building up of assets in the estate.

Estate preservation

Wealth preservation is all about protecting one's estate. After building our wealth, the failure to protect it in the right way would render our efforts wasted.

Firstly, wealthy individuals living in unstable countries with volatile political systems may face potential seizures by corrupt governments. There may also face restrictions on the movement of their wealth or exchange controls. Such individuals can choose to protect their wealth by establishing trusts managed by trust companies, or accounts with strong currency assets, as part of their estate plan.

Secondly, many wealthy individuals depend on the success of their business, where they are the key-person, to generate income for their family. Businesses that have taken a huge loan are faced with the possibility of a sudden recall of debts when the key person passes away. Individuals who have not diversified their wealth by investing in assets other than their business also face the risk of losing most of their wealth when their business suffers.

Thirdly, the inability to take the necessary action to manage one's assets upon mental or physical incapacity can be detrimental to one's overall wealth. For example, people have been known to have stayed in a coma for many months following an accident or illness. Upon death, the process of obtaining a probate from the courts may also take months or years before their assets can be distributed to loved ones.

Another major concern is the failure to protect one's estate from one's own beneficiaries. Some beneficiaries may be spendthrift and squander a multi-million dollar estate in a short time. An unstable marriage can also see the estate diminished through divorce, leaving the dependents poorer.

The next enemy of wealth preservation would be taxes. Not many people like their wealth eroded by tax, nor would wish to evade it and risk breaking the law. Unfortunately, many people are not aware that tax can be legally avoided or reduced with proper planning. An estate that does not have cash to pay for inheritance taxes could be forced to sell much of its assets like businesses, property and stocks at the wrong time.

Proper estate planning would help ensure that the usage of our assets will be maximised upon our death, through the minimal tax payable. This can be achieved through gifts, trust, he choice of country where money is placed and the nature of the contract whereby the wealth is managed.

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