Insights: Publications

Estate Planning Ownership Playbook

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The Chicago Bears are a charter member of the National Football League, with ownership maintained by George Halas and later, his daughter, Virginia Halas McCaskey, for over 100 years. Upon Virginia McCaskey's death last week, NFL onlookers and estate planners have many questions about what it looks like to pass an asset like an NFL franchise onto the next generation. Virginia McCaskey's estate planning specifics may not be known to the public for some time, but clients of any tax bracket can take important lessons about wealth transfer and succession planning by looking at the estate planning playbook used by those like the Halas family.

Have a Game Plan

While owning and operating a professional football organization is certainly not the typical family business, passing a business from one generation to the next is important to many – this can be accomplished by a variety of business preservation and succession strategies, such as multigenerational estate planning, family operating and partnership agreements, and shareholder buy-sell agreements. It is particularly important to consider business succession planning in light of the Supreme Court's ruling in *Connelly v. United States*, where the Court found that life insurance proceeds payable to a closely held business for the purpose of funding a share redemption were includable in the deceased shareholder's taxable estate, which could have been avoided by using a properly structed cross-purchase agreement rather than a redemption agreement. Further, using irrevocable trusts to properly structure a cross-purchase agreement allows shareholders to mitigate estate tax liability, provide liquidity for a smooth transition of ownership, and utilize his or her remaining lifetime estate and gift tax exemption, which is discussed further below.

Strategic Gifting

The federal estate and gift tax exemption reached $13,990,000 per taxpayer in 2025. All taxpayers also have an annual gift exemption of $19,000 per donee in 2025. Moving assets out of your estate via gifting is one strategy to reduce your taxable estate. Any exemption used during lifetime reduces the exemption amount available upon death – the benefit of using your exemption during your lifetime is that any appreciation on the gifted assets escapes estate tax. Further, selling assets to an irrevocable trust after utilizing your remaining exemption not only moves the assets out of your taxable estate, but there are also certain income tax benefits. In most circumstances, the Grantor (i.e, the person who created the trust) will remain responsible for paying the income tax attributable to the trust assets, which allows the Grantor to further reduce the value of their taxable estate (without imposition of any gift tax) while the trust retains the income earned and grows income tax-free. The sale also results in a “freeze” of your assets for estate tax purposes, which is discussed further below.

Minimize (Tax) Penalties Via an Estate Freeze

The sale of assets to an irrevocable trust in exchange for a promissory note “freezes” the value of an asset as of the date of the sale. As a result, the appreciation of the asset over time occurs outside of your estate. The benefits of this strategy include reducing or eliminating estate tax on the appreciated assets and passing wealth to future generations with little to no gift tax consequence. It is important to note that a Grantor must give up control over these assets and it is generally not possible to move assets out of these trusts. Your Kilpatrick estate planning attorney can discuss the pros and cons of this strategy with you.

A Full Bench of Advisors

A good estate plan includes naming fiduciaries, such as agents under powers of attorney and successor Trustees. Depending on your asset profile, it may be necessary to name additional fiduciaries and advisors to ensure the proper management of your affairs and distribution of your assets. You may wish to add Investment Advisors or Special Trustees to your trust planning to manage specific assets, like business interests.

Review Regularly

Even the best crafted estate plan should be reviewed from time to time to ensure that fiduciaries, beneficiaries, and technical provisions work the way you intend. Assets that may have once looked simple can grow over time, and you may want to revisit whether your strategic planning matches your goals and testamentary intent.

Related People

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