Tend Your Estate Before You Buy the Farm

Manager's Journal

By William H. Myers Jr.

It's ironic that thousands of executives - men and women who skillfully manage the nation's most successful corporations - aren't planning as well for themselves. They have no estate plan. And without one, they put their heirs at risk of losing half or more of what represents years of hard work and good decision-making to various state and federal taxes.

While it is hard to quantify just how many billions of dollars could be lost by this group simply by not having a comprehensive estate plan, my firm recently commissioned a nationwide survey of 2,000 executives earning $100,000 or more a year and found that 65% don't have one.

Part of the problem seems to be a widespread misunderstanding of what constitutes an estate plan. Many executives mistakenly think a will is sufficient. Others naively claim they "have plenty of life insurance." And while both wills and insurance play a role in estate planning, these executives will need other means to preserve their assets and minimize state, and federal taxes. Of course, everyone is entitled to a federal estate-tax exemption of $1,500,000 (increasing to $3,500,000 as of 2009).

Chief executives appear somewhat more knowledgeable than other managers, according to the survey, with one in two having a comprehensive estate plan. Still, that means far too many of the country's top corporate officers are woefully unprepared for the inevitable.

Some high-level executives whose perks include tax and financial-planning advice think they also have an effective estate plan. More often than not, they don't.

So, what is an estate plan? Perhaps it's best defined by what it does. Simply, it ensures that what you value benefits the people or charitable organizations you choose to help. The concept seems easy enough to understand. But the myriad laws and legal documents that make an estate plan work are much more complex.

One reason is that needs vary. A will is always necessary - regardless of age, marital status and health. But beyond that many variations exist - trusts, life insurance policies, pension funds, retirement accounts, stock options and bonuses, to name a few. Then there are the special family needs, which can range from providing for ill parents to caring for disabled children or grandchildren. Executives should coordinate their assets with effective legal arrangements to accomplish their objectives. Then, they will have a comprehensive estate plan.

Your estate plan is determined by carefully considering and integrating three factors: Whom or what do you want to benefit? What are the best means to pass your assets to your beneficiaries? And, of considerable importance, what are the tax consequences of your actions and how can you improve them?

You'll need to make other important decisions early on, including where you plan to make your home when you retire. This selection very much affects your tax situation. Whether you choose Florida, California, Texas, Arizona or some other locale, it is critically important that your attorney understand that state's probate, income, gift and estate tax laws, as well as the federal laws affecting your estate.

Seek an attorney who specializes in estate planning. The consequences are too important and the laws change too often to rely on a lawyer whose practice focuses elsewhere. Your corporate attorney or outside counsel can advise you on how to select a lawyer in a given area.

Your next step is to list your assets - homes, other real estate, stocks, bonds, insurance jewelry, bank accounts, pensions, art collections, antiques, etc. It is important that you specify ownership of these assets. Is an asset registered in your name, your spouse's or jointly? Likewise, note any liabilities, debts and obligations.

Also, before meeting with an attorney, write down who you want your estate to benefit and how. Your objectives and desires need not be in legal language. Your attorney will see to that, and should also advise you so that no unintended inequities arise in structuring and devising your estate plan.

Once familiar with both your assets and objectives, your attorney can explain and implement techniques to protect your family wealth from unnecessary tax liabilities. For example, generally an executive's group life insurance coverage is owned by the executive. This means the Internal Revenue Service is an unnamed beneficiary of roughly half of the proceeds upon the death of the executive or the executive's spouse. This 50% tax can be easily and legally avoided through proper planning. The point is that none of this happens automatically.

I asked several executives - none of whom would ever think of managing their companies' business operations without a plan - why they didn't have a comprehensive estate plan. There weren't many good answers. Perhaps a fear of facing one's mortality keeps estate planning on too many executives' "Things to Do" lists far too long.

I only know that it's tough to sit with a grieving spouse and explain how half the husband's or wife's estate was lost to taxes - all because of poor planning.

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