

# Estate Planning and Estate Tax Issues for Surgeons and Spouses

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# Overview

- Tax laws in 2016
- Estate tax planning tips
  - Do you need estate tax planning?
- Non-tax planning issues
  - Help add to you retirement security
- What to do in the remainder of 2016



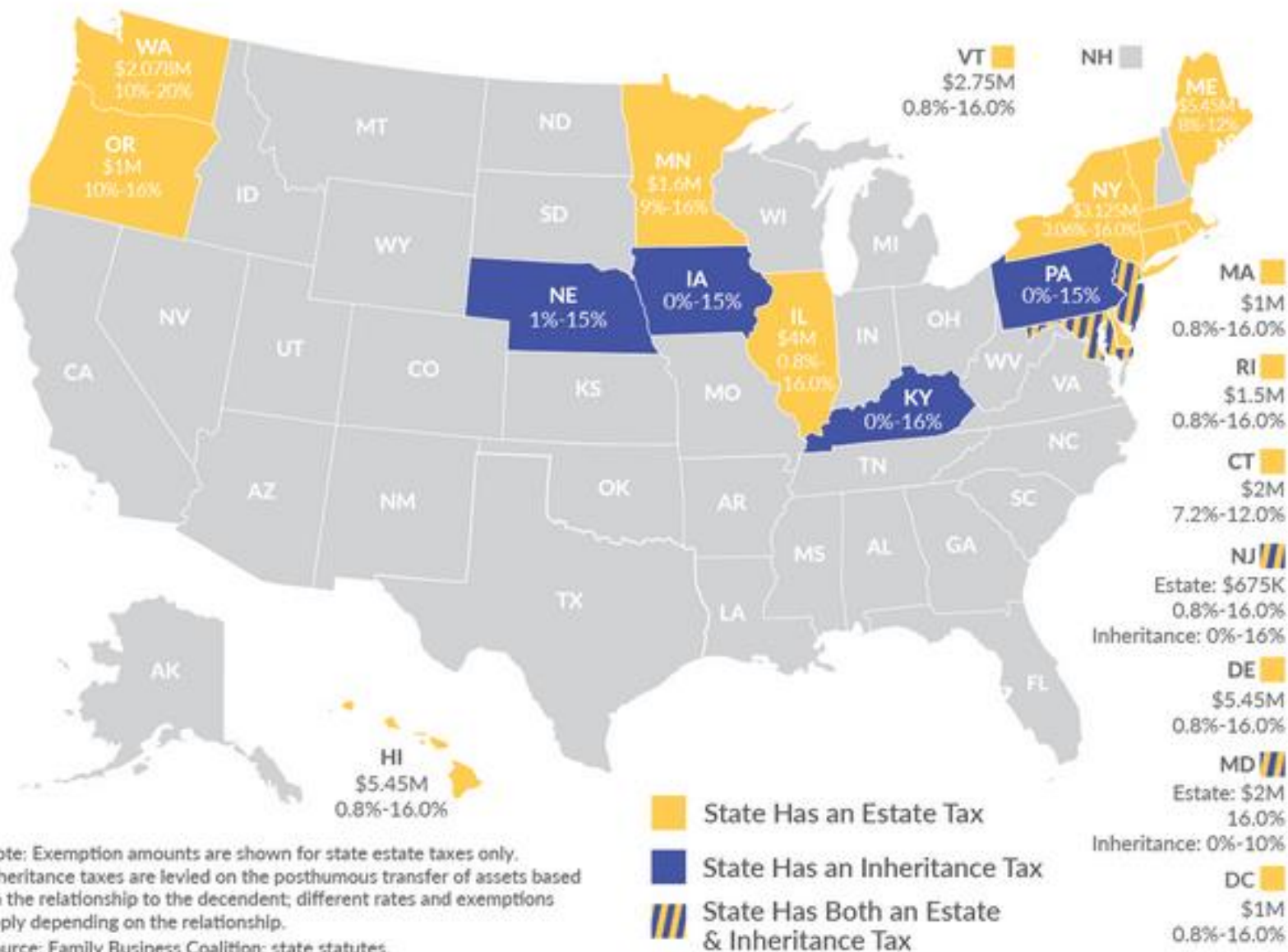
# State of Tax Law in 2016

- Lifetime estate and gift tax exemption \$5.45 million per person, \$10.9 million per couple
  - Portability allows surviving spouse to carry over unused exemption of first spouse
- You may gift up to \$14,000 (\$28,000 per couple) to anyone and not incur gift tax or dig into your lifetime exemption



# Does Your State Have An Estate or Inheritance Tax?

State Estate & Inheritance Tax Rates & Exemptions in 2016



# More on Portability

- Now permanent with enactment of the American Taxpayer Relief Act of 2012
- Portability allows a surviving spouse to use a deceased spouse's unused estate tax exclusion (up to \$5.45 million in 2016)
- The executor of the first-to-die's estate must make an election on a timely-filed estate tax return



# Example of Portability

Husband dies  
\$8MM estate  
Uses portability  
No estate tax

Wife is beneficiary

Wife dies  
\$10MM estate

Wife's exemption: \$5.45MM

Husband's exemption: \$5.34MM

Total exemption for wife: \$10.79MM

No estate tax

Children inherit  
\$10MM\*

\*State estate taxes not considered

At death of first spouse, separate assets into A and B trusts to benefit spouse, taking advantage of exemptions

“A-B”  
Trust

“A” Trust  
Marital  
Deduction

At death of surviving spouse, combine A and B trust assets, distribute to children/grandchildren

Spouse is trustee of each trust

“B” Trust  
Federal  
Exemption

Beneficiaries receive trust assets



# Do I Need a Trust for My Spouse?

Perhaps, if you answer 'yes' to any of these questions:

- Is your estate sufficiently large to require an A-B trust arrangement?
- Do you worry your spouse will be unable to manage assets when you're gone?
- Do you want to ensure creditor or second-marriage protection for your spouse and children?
- Is your spouse not a U.S. Citizen?





# Do you need estate planning at all?

- Estate tax exclusion
  - Amount has increased dramatically over the past decade, with the limit having been \$1.5 million as recently as 2005
  - Result has been that many people have a false sense of security that they don't need to do estate planning at all; believe they will not likely exceed the exclusion
  - How much will your estate grow?
- Making sure your assets go to the people you want to have them



# 5 Estate Tax Ideas for All

Reduce your estate value by accelerating wealth transfers during your lifetime

1. Make annual gift tax exclusion gifts to children/grandchildren/friends

\$14,000/\$28,000 in 2016 – adjusted for inflation

2. Pay direct tuition and medical expenses of children/grandchildren – no gift tax
3. Charitable giving including gifts that pay you back with income for life and supplement your retirement income




# 5 Estate Tax Ideas for All (con't)

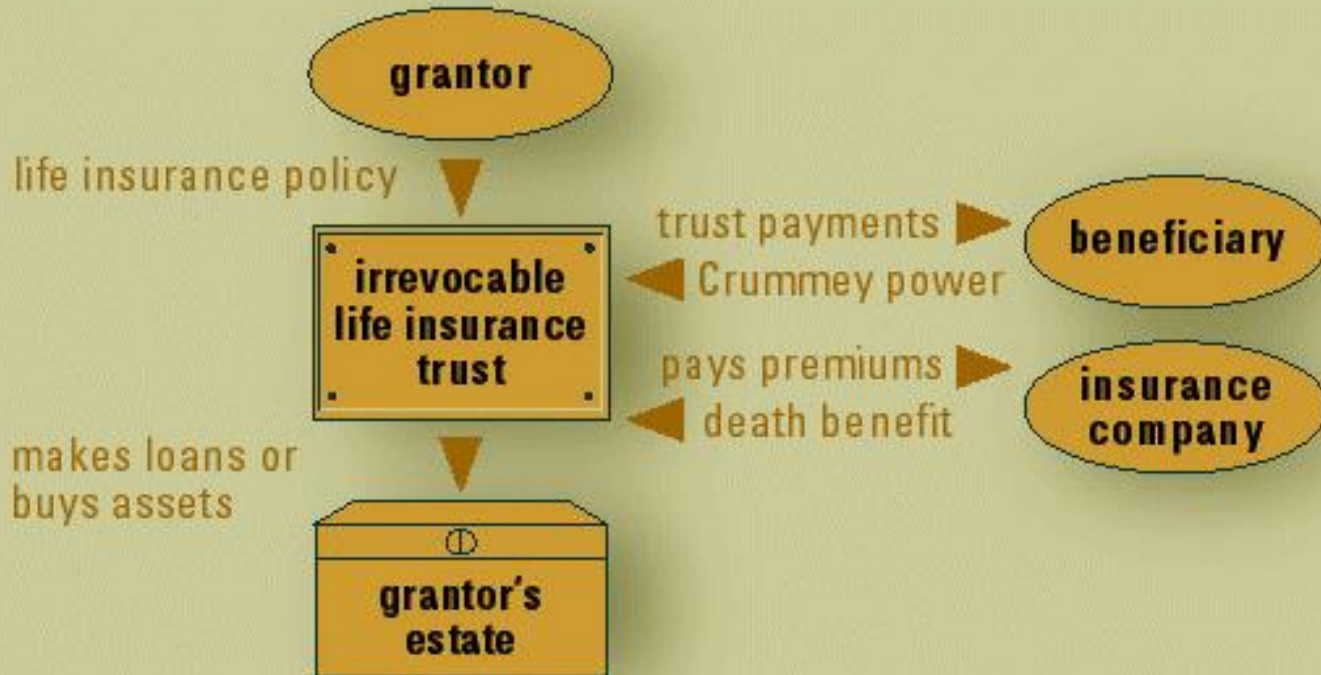
## 4. Set up higher education 529 Plans for children/grandchildren

- Education savings plan to help families set aside funds for future college costs
- Growth is exempt from federal taxes
- Contributions may be state tax deductible

## 5. Establish Irrevocable Life Insurance Trust

- Policy proceeds avoid estate tax
  - Spouse initial beneficiary, children/grandchildren as eventual beneficiaries
  - Premium payments may be made gift-tax free using “Crummey Power”
- 

## HOW THE IRREVOCABLE LIFE INSURANCE TRUST WORKS



From <http://www.endowdevelop.com>

# Planning Beyond the Estate Tax

## Documents we all need

- *Will or Revocable Trust* – ensures your wishes for the distribution of your estate property and care for minor children is as you wish
  - If you die without a will or trust, all too common, your resident state will decide how assets are distributed
  - Trust does not go through probate – privacy
- *Durable Power of Attorney* – May become incapacitated during life and not be able to handle legal and financial responsibilities
  - Allows a person to act as ‘attorney-in-fact’



# Planning Beyond the Estate Tax (con't)

## Health Care Directives

- *Living Will* – instructs physician to withhold or withdraw medical interventions if patient is in a terminal condition and is unable to make decisions about medical treatment
- *Durable Power of Attorney for Health Care* - designates an agent to make health care decisions if the signer is temporarily or permanently unable to make such decisions
  - The signer is not required to be in a terminal condition



# Planning Beyond the Estate Tax (con't)

## Retirement Planning – The Challenges

- Surgeons have shorter working lives – they start their careers later than most
  - Fewer years for retirement money to compound/grow
- They earn a lot but pay more in taxes
- Little or no financial aid for their children's educations
- Incentive to put more money away and avoid risky 'investments'



# “Study finds many doctors don't save enough for retirement”

Chicago Tribune, December 7, 2015

- “Traditionally, like entrepreneurs, doctors invested heavily in their office buildings and equipment and looked for a young physician to buy them out at retirement.”
- “Today, more are employed by hospitals and large groups, meaning their major retirement savings vehicle is often a 403(b) plan...[or]...a 401(k)...”





# “Study...” (con’t)

- “If you started saving in your 30s or even later, aim for saving 25 percent of pay - or a third if you're in a highly compensated specialty - for medium-term needs and retirement.”
- “Money in Section 457 deferred compensation plans, common among large nonprofit practices, is by law available to creditors in the event of default.”



# Retirement Plan Limitations

- Limit the amount you may invest, potentially leaving you short of your goals
- For those that receive a W-2 (taxes withheld by an employer), a 401(k) or 403(b) is a tax-deferred opportunity to save for retirement
- The self-employed who receive 1099 income as an independent contractor have more options for contributing to retirement such as a SEP IRA, solo/individual 401(k), profit sharing plan, and cash balance plan



# For Those That Receive a W-2

	2016	2015
<b>401(k), 403(b), Profit-Sharing Plans, etc.</b>		
Annual Compensation	\$ 265,000.00	\$ 265,000.00
Elective Deferrals	\$ 18,000.00	\$ 18,000.00
Catch-up Contributions	\$ 6,000.00	\$ 6,000.00
Defined Contribution Limits	\$ 53,000.00	\$ 53,000.00
ESOP Limits	\$ 210,000.00	\$ 1,070,000.00
HCE Threshold	\$ 120,000.00	\$ 120,000.00
Key Employee	\$ 170,000.00	\$ 170,000.00
<b>IRAs</b>		
IRA Contribution Limit	\$ 5,500.00	\$ 5,500.00
IRA Catch-Up Contributions	\$ 1,000.00	\$ 1,000.00

# For Those That Receive a 1099

	2016	2015
<b>SEP</b>		
SEP Minimum Compensation	\$ 600.00	\$ 600.00
SEP Maximum Contribution	\$ 53,000.00	\$ 53,000.00
SEP Maximum Compensation	\$ 265,000.00	\$ 265,000.00
<b>SIMPLE Plans</b>		
SIMPLE Maximum Contributions	\$ 12,500.00	\$ 12,500.00
Catch-up Contributions	\$ 3,000.00	\$ 3,000.00
<b>Other</b>		
Defined Benefit Limits	\$ 210,000.00	\$ 210,000.00
457 Elective Deferrals	\$ 18,000.00	\$ 18,000.00
SS Taxable Wage Base	\$ 118,500.00	\$ 118,500.00

# Charitable Retirement Alternatives

## Charitable Remainder Unitrust ("CRUT") – a gift that pays you back

- A CRUT distributes a fixed percentage of the value of its assets (on an annual or more frequent basis) to a non-charitable beneficiary
- At the termination of the trust (usually the death of the donor), the remaining balance of the CRUT's assets are distributed to charity
- The fixed annual fixed **payout percentage** must be at least 5% and no more than 50% of the fair market value of the assets establishing the trust

# Great for Retirement: The “Flip” CRUT

A Flip CRUT allows a donor to fund an eventual fixed-percentage-payout trust with a highly appreciated, but low income-yielding, asset like stocks, bonds or real estate

- Avoids capital gain tax on transfer of asset to trust
- The full value of the asset goes to work in the trust without tax erosion; value may grow over time increasing eventual payout
- Increases cash flow in the future after “flip” event
- “Flip” event may be a certain date or the sale of the assets, controlled by trustee who may be the donor



# Charitable Remainder Unitrust







# Charitable Retirement Alternatives (con't)

## Deferred Charitable Gift Annuity

- Beginning on a specified date in the future, the charity begins to pay up to two annuitants, fixed annuity payments for life
- A deferred annuity is particularly helpful when a large charitable deduction may be needed now but payments aren't needed until retirement
- The longer the deferral period, the greater the payout rate and charitable deduction
- Deferred payments are higher than an immediate payment annuity as well as many securities and CDs



# Deferred Charitable Gift Annuity

## \$100,000 Transfer of Cash

<u>Age At Gift</u>	<u>Payments Begin at Age</u>	<u>Payout Rate</u>	<u>Annuity Payment</u>	<u>Tax-Free Portion</u>	<u>Tax Deduction</u>
50	65	7.6%	\$7,600	\$3,722	\$25,936
50	70	9.6%	\$9,600	\$4,107	\$34,699
60	65	5.5%	\$5,500	\$3,486	\$30,635
60	70	7.0%	\$7,000	\$3,826	\$39,189
65	70	6.0%	\$6,000	\$3,818	\$39,290



# Flexible Deferred Gift Annuity

- Annuitants choose in the future, not today, when the payments will start within a range of possible starting dates
  - You choose later when to begin receiving payments
- Charitable Deduction for the earliest possible start date
- Rates increase with longer deferral



# Flexible Deferred CGA

## \$100,000 Transfer of Cash

<u>Age At Gift</u>	<u>Payments Begin at Age</u>	<u>Payout Rate</u>	<u>Annuity Payment</u>	<u>Tax-Free Portion</u>	<u>Tax Deduction</u>
55	65	6.5%	\$6,500	\$3,760	\$25,070
55	70	8.2%	\$8,200	\$4,125	\$25,070
55	75	11%	\$11,000	\$4,521	\$25,070
60	65	5.5%	\$5,500	\$3,592	\$28,524
60	70	7%	\$7,000	\$3,969	\$28,524
60	75	9.4%	\$9,400	\$4,352	\$28,524



# Charitable IRA Rollover

Don't want to pay taxes on income you don't need?

- If you're 70½ or older, you may directly transfer the value of your Required Minimum Distribution from your IRA to ACS Foundation and avoid federal tax
- Great for those who are philanthropic and don't need the IRA income



# Asset Protection

- **If you hold assets in your own name**
  - You have no asset protection and are vulnerable to attack by any creditor or lawyer wanting to file a lawsuit against you
- **If you do not hold title to your assets in your own name**
  - With a fully structured and implemented asset protection plan, you may rest assured knowing that your professional and personal assets are protected
  - Plans use domestic entities (e.g. an LLC), domestic trusts, and perhaps offshore entities
  - It is difficult for creditors to discover what you own
  - Reduces incentive for claims on your assets
  - You're not hiding assets just making them less likely to be at risk



# Asset Protection (con't)

- Living trusts provide virtually no protection from creditors/lawsuits
  - Certain trusts for others, with a 'spendthrift' clause, may disallow 'involuntary' transfers
- Medical malpractice insurance helps, but...
  - A claim can be made that exceeds your liability coverage
  - Most insurance plans do not cover punitive damages or intentional wrongdoing
  - Proper planning would include both liability coverage and asset protection techniques



# Asset Protection (con't)

Generally protected from creditors

(Subject to federal or state law)

- Qualified retirement accounts
- Life insurance and annuities
- Principal residence, car
- Family limited partnerships

## Umbrella Liability Insurance

- Can cover the shortfall of most basic home and auto insurance policies





# What to do before December 31st

- Review estate planning documents
  - Laws have changed drastically and old documents may not fulfill current intentions
  - Address portability and A-B trusts
- Consider annual tax-free gifts to children/grandchildren
- Make use of couple's \$10.9MM gift tax exemption for larger transfers
- Consider charitable gifts, particularly life income gifts to augment retirement income



# Questions?

Presentation slides:  
[www.plannedgiving.facs.org](http://www.plannedgiving.facs.org)

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