



Toledo  
Community  
Foundation

Inspiring and Connecting Thoughtful Giving

# "Giving" Advice



**TOLEDO COMMUNITY  
FOUNDATION**  
300 MADISON AVENUE  
SUITE 1300  
TOLEDO, OHIO 43604

419-241-5049  
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## ABOUT YOUR FOUNDATION

Since 1973, the **Toledo Community Foundation** has provided individuals, families and businesses interested in the well-being of our community with an *efficient, effective, low-cost, professionally managed* mechanism to achieve their charitable goals.

For philanthropists wishing to maximize the impact and life of their charitable gifts, the Foundation provides *resources for thoughtful giving*. Using its expertise and personalized services, **Toledo Community Foundation** helps donors transform their philanthropic impulse to measurable

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## The Evolution of Estate Planning

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### ACCOUNTING TODAY

To take a phrase commonly used in general aviation, "flying blind" is not a good thing. With storm clouds all around and visibility severely limited, qualified pilots have to rely on a combination of instrument flight rules and the air traffic control system to safely arrive at their destination. In many respects, estate planning is similar to flying, as the goal of estate planning is to transport your client from one point to another safely and securely without experiencing any major financial problems. Successfully accomplishing this goal requires a formal plan and proper decision-making by the client.

Because significant tax reform is almost a certainty under the Obama administration, you should assist your clients in developing a formal plan of action to address what could be a broad array of potential legislative changes affecting income, capital gains, gift, estate and generation-skipping taxes.

From an estate-planning standpoint, these changes in legislation could include a substantial increase in the federal estate tax exemption threshold, portability of the estate tax exemption, and re-unification of the gift and estate tax exemption.

There is also a strong likelihood that traditional estate planning will morph into a more holistic view of what is needed to help clients transfer their wealth in the most tax-efficient way possible. Affluent clients recognize that wealth management extends far beyond just property and monetary issues, so their estate plans should also incorporate provisions to transfer family values, emotional stability and ethical principles to

community impact. Beyond the gifting of assets, the Foundation helps donors identify issues of importance to them and *inspires engagement* with community organizations addressing these issues, thereby maximizing the impact of charitable gifts and creating a greater sense of fulfillment.

future generations. Perhaps the best description of this new paradigm would be "legacy planning."

The traditional view of estate planning has generally been focused on reducing estate taxes and planning for estate liquidity needs. For your extremely high-net-worth clients, estate planning techniques will remain largely unchanged and should include grantor trusts, generation-skipping trusts, insurance products, and a variety of charitable gifting options, including charitable remainder trusts and private foundations.

However, for clients with smaller estates (i.e., \$10 million or less), estate planning will likely be redefined and take on the broader characteristics of legacy planning. Advisors should anticipate that those characteristics would include an increased emphasis on the following:

- \* Business succession planning;
- \* Non-qualified executive compensation;
- \* Estate equalization;
- \* Asset repositioning strategies;
- \* Retiring debt;
- \* Life insurance in a qualified retirement plan;
- \* Insurance-based, non-qualified retirement plans; and,
- \* Asset protection strategies.

As a result of new legislation, if estate tax exposure is eliminated for the majority of individuals, advisors may also find a corresponding decrease in the utilization of gifting strategies, especially those involving significant charitable gifting.

An added benefit to the anticipated shift from traditional planning to legacy planning is that the recent market turmoil has created a window of opportunity. The downturn in the markets, coupled with the current low-interest-rate environment, allows individuals to transfer wealth at exceptionally low values. We may look back on this period as a historic opportunity for the transfer of wealth, which is unlikely to be seen again in our lifetime.

In today's low-interest-rate environment, there are a number of planning techniques that function well, but the viability of these opportunities is enhanced when asset values are depressed.

As an example, a grantor retained annuity trust is an irrevocable trust into which an individual places property while retaining the right to an

annuity that is generated by that property. At the end of the trust term, the value of the trust in excess of the required annuity payments passes to beneficiaries, either outright or in trust.

An advantage of a GRAT is that gift tax is paid based on the value of the assets when the trust is initially funded, not the value when it terminates. Therefore, a GRAT can now be funded with depressed assets and have the tax calculated on those currently depressed values.

In addition, the Internal Revenue Service only calculates tax on the value expected to be left in the trust once the annuity payments have been completed. At the beginning of 2009, the Section 7520 rate used to calculate the annuity payment will be at the lowest level since the inception of this rate on May 1, 1989. When the market recovers and asset values increase, the trust beneficiaries will receive the excess appreciation free of estate taxes.

In the coming months, we could see major changes in tax policy that will likely accelerate the transition from traditional estate planning to legacy planning. With the current low-interest-rate environment and depressed asset values, clients will have access to unprecedented wealth transfer opportunities. Advisors should welcome these changes, as change generally creates opportunity. Those who adapt will be well-positioned to take advantage of that opportunity.

Will you be ready?

Ed Bowen, CIMA, CLU, CHFC, is manager of 1st Global's Advanced Case Design Group, coordinating the overall planning and implementation of complex financial strategies for high-net-worth individuals and closely held business owners.

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