HSBC Private Banking

Planning for Prosperity – webinar series
Estate Planning Fundamentals

Speakers

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Presentation

Carly Doshi

Hello, everyone, thank you for being here today for our first 2021 installment of HSBC Private Banking's webinar series Planning for Prosperity. I'm Carly Doshi, Regional Head of Wealth Planning and Advisory for the Americas with HSBC Private Banking, and I am delighted to be here with you today and genuinely very excited about the conversation we are about to have on estate planning fundamentals.

For anyone who's not familiar with HSBC's Wealth Planning and Advisory team, we are an in-house team of former practicing attorneys who work alongside HSBC Relationship Managers in helping our clients formulate and implement strategic wealth plans. We have wealth planners based in key locations across the region and around the world, and our team works hand in glove with Investment Counselors and Financial Consultants to provide holistic wealth management advice. Our focus, of course, being on structures, tax efficiency, and inheritance, and always with an eye to helping you achieve your long term financial goals.

So, today, the hope of today is to be the start of a conversation with you and your family about estate planning. HSBC's teams are glad to assist and we will work with you to consider your options, and following this program, we encourage you to engage with your Relationship Manager or your Financial Consultant to discuss further. HSBC has a great deal of content available for further reading on the topics we are going to discuss today, so do consider this session an introduction of sorts, and by no means is this intended to be exhaustive.

Now, I would like to introduce our two panelist experts who I know you're going to enjoy hearing from. Robert Nemzin is a Senior Wealth Planner with HSBC Private Banking based in New York. Robert is a trained attorney with an advanced Master of Laws degree in tax, and he practiced law as an estate and tax planning attorney for individuals and families for about 12 years before joining HSBC. Robert specializes in working with business owners on business planning, including generational transfers, tax planning, and business exits, and he leverages his expertise as the National Chair of the Business Planning Committee for the American Bar Association. Thank you for being here with us, Robert.

Robert Nemzin

Happy to be here, Carly, thank you.

Carly Doshi

Next, Rick Resende is Vice President of Insurance Solutions for HSBC Private Banking based in Miami. Rick works directly with HSBC clients on a host of insurance planning strategies and coordinates the delivery of insurance solutions via seasoned underwriters from leading insurers. Rick has over 25 years of experience serving individuals and families, and he's a noted insurance professional, having been the recipient of several industry awards, including being named in Insurance Industry's Top of the Table, and Rick has also been named a Five Star Wealth Manager by Miami Magazine. Rick, glad you're here.

Rick Resende

Thanks for having me at this webinar.

Carly Doshi

So, clearly, with Robert and Rick leading the charge, we are in very capable hands today, and I'd like to start at the very beginning, why we're here and why estate planning even matters? Robert, can you start by explaining to us what is at stake in this conversation, and why is it so important to have an estate plan?

Robert Nemzin

Yes, Carly, what's important here to know and realize is estate planning is for everyone, regardless of the amount of your assets. At its core, estate planning is about managing your wealth and wellbeing both during your lifetime and upon death, and that's something that really applies to everyone, regardless of the amount of your assets. While tax minimization can be a motivating factor for estate planning, the non-tax reasons for planning are vast and impacts everyone regardless of net worth. So, that's something to be aware of where if you think you don't have enough assets to engage in estate planning, that is something that you shouldn't think because there are things that we need to do to protect you, regardless of your net worth.

Carly Doshi

Great, and sometimes in our industry, advisors will say everyone has an estate plan. If you don't choose one, your state has one for you. Can you explain that concept of it?

Robert Nemzin

Yes, so it's funny. So, like you said, everyone has an estate plan. If you don't choose one, the government picks one for you. There's a fancy legal term called intestacy, and really what that means is if you do not have a will in place, the state in which you live in dictates how you're going to receive your assets, and it's really just a matter of who's living at that time within your family within the hierarchy, and that's quite oftentimes not a situation that clients want, where you may have specific advice for who's going to receive your assets. Now, there is a famous case that really happened relatively recently where the musician Prince passed away, and he passed without having an estate plan in place as well. So, that's a big one that made the headlines, but that's really at stake where you can't control who you want to receive your assets without having a will. Now, more importantly also is we need court intervention when we don't have an estate plan in place, where if during your lifetime, you do not have a plan, we need to go to court to have a guardian appointed for you, if you become incapacitated, and following your death, we need to have a personal representative or executor appointed to make sure that somebody is in charge to administer your affairs. Now, the issue with that is we may not be appointing the persons that you want to do that, where if you have a plan in place, it will be clear who you want to be in charge for those purposes. If you don't have a plan in place, really, it's up to a judge to decide who the judge wants to appoint, and at that point, it's really who may be volunteering that that wants to take on those roles, and quite oftentimes the people that we want to take on those roles may not be the people that you want. So, there's a lot at stake here for what happens if you don't have a plan in place, and that's something that we really need to be careful with and why it's so important to have a plan.

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Carly Doshi

Fantastic and very useful, Robert. Eye-opening for all of us. Now, I'd like to dig into the details of it and talk about documents. Please tell us what documents comprise an estate plan and what are the items that everyone dialing in today needs to have in place?

Robert Nemzin

Thanks, Carly. So, I'll refer to the documents that are on this slide. In my mind, this really completes an entire estate plan. I'd like to talk about the first couple items first, because I think those are the easiest for individuals to understand, and those are powers of attorney. What these documents at its core deal with is making sure you are taken care of during your lifetime if something happens to you. Now, we have two different documents that we do for that purpose, and the first one that we have listed is called a Durable Power of Attorney for financial matters. Really what this document does is it names an agent, we call that person an Attorney-in-Fact, and what that person does, it keeps… that person does everything with your assets that you could do with yourself, and that person can buy, sell assets, file your tax returns, have access to your assets to make sure you are taken care, writing your checks, paying your bills. So, that's what that person does for you during your lifetime if you can't do that for yourself.

Now, in addition to that, the other item listed here is a Medical Power of Attorney. Now, this item is called differently in different states, but really at its core, what this document does, is it also names an agent, and what this agent does is make sure that you are taken care of regarding your healthcare if you can't make your healthcare decisions for yourself. So, they do all things related to your healthcare regarding admitting you to a hospital, making end of life decisions, dealing with healthcare providers, and telling them to administer or not provide healthcare coverage consistent with what your provisions are in the documents that you put in place. So, those two documents are very important for taking care of you during your lifetime.

Now, once there's been a death, those two documents really are of no use, and that's where the third document that's listed comes into play, and that's the will, and what the will is, and it's a very simple document in general terms, what that document does is it names a personal representative or executor, depending on what state you're in and what that position is called, but that person is charged with coming in, finding all the assets that are in your name, paying off all of your bills, any debts, creditors expenses that you may owe, and after we pay off all of those expenses, we use the remaining assets to pay out to the beneficiaries that you've provided in the will, and that's basically all what the will does. You might have heard the term probate or going through probate. That's what this process is and deals with for dealing with the assets that you own in your name.

Those first three I would say are the core estate planning documents that should apply regardless of what state that you live in. The last item that's listed on this slide is a Revocable Trust or a Living Trust. Those terms are synonymous. It's the same thing for what we're talking about. Some states use Revocable Trusts more often than others, but it's something that is out there that generally I think is a good idea for planning, and what this document is it's a hybrid document. Now, if you recall, the first two documents I discussed were dealing with lifetime, the will deals with death, and the trust is a hybrid of the two because it can apply both during your lifetime, to the extent that you transfer assets to it, and then it will deal with those assets and distribute those assets according to the terms that you provide following your death. So, trusts are a great thing in my mind. They're not for everybody, depending on your circumstances, but that is something that can be a great effective vehicle for administrating your assets and providing a plan for how we're going to distribute those assets to your beneficiaries. Carly, back to you.

Carly Doshi

Great. Thank you. Thank you, Robert. Very useful information. Now, Rick, I want to bring you into this conversation. Robert just went over some basic estate planning documents that attorneys draft for clients and that everyone should have, but there's a reason you're here, and that's because insurance is a very important estate planning tool also. Can you tell us a bit about the role of insurance and estate planning? Why do we need to include existing policies in that estate planning analysis and potentially consider additional coverage?

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Rick Resende

Carly, thanks again for having me, and I just wanted to let you know that before I even answer your question, there's some compliance stuff I have to get out of the way, so I hope you guys don't mind. Just bear with me, I just have a couple sentences of disclosure that I have to make sure everybody's aware of.

I need you to be aware that the products and services we are about to discuss are not bank products, are not FDIC insured, or insured by any other federal or government agency. They're not guaranteed by the bank or any of its affiliates, and they may lose value.

Now, that we are done with the compliance and disclosure—

Carly Doshi

Always important. As we mentioned, you're licensed.

Rick Resende

Which is important, absolutely, absolutely.

So, going back to your question, the reason for insurance and why it plays a role on anyone's estate plan and regardless of what they're worth is when we're looking at this slide over here, these are some of the reasons why people take out life insurance. The two fundamental reasons I see why people take out life insurance are basically bracketing the other three. So, on the left side, you have liquidity, and on the right side, you have peace of mind. These are fundamentally the two main reasons why people take out life insurance, regardless of their socioeconomic status. You have, oftentimes, coming across life insurance, when you're first starting out with your life, perhaps you're with your partner, you move into your new house, you now have a mortgage, you're thinking to have a family together, this is when the conversation about life insurance starts with most families, and again, it's just that natural instinct for us to protect and provide for our loved ones.

So, essentially, what life insurance does, it provides that money, that liquidity that would be lost in the absence of a breadwinner, and you want to ensure that that mortgage is paid off, and that child is going to have a college education. However, this eventually later on life, it gets extended, so for some more established families, there are going to be other concerns where life insurance is going to be applicable. Mainly, oftentimes, a family's wealth is tied pretty much entirely to a very large illiquid business, so a very significant part of the wealth is just illiquid, and in the event of a sudden death of the patriarch or matriarch running that business, the family could be in jeopardy of falling into a cash crunch. So, life insurance can provide that liquidity and therefore provide that cash flow for them to maintain their standard of living.

For business applications, if you don't mind, if we could go to the next slide, slide number four, we have some other applications where life insurance can come into play, and just briefly, a very common business application is whenever you have a couple of business partners running a business, it is very common for them to establish what's called a buy/sell agreement, which basically dictates how the business proceeds would be distributed in the event of the death of one of the partners. Well, it's all nice and good to have that plan in place, but if you don't have the capital to implement the plan, unfortunately, a lot of times you can have a major issue with the business. So, life insurance injects that liquidity so that the surviving partner of a business can therefore buy out the business interest from the heirs of the deceased partner, and therefore have a smooth transition. The heirs receive an equitable value that was agreed upon by the deceased partner prior, and therefore the surviving partner can go on with the business 100% and continue with the business.

And of course, as you're well aware, there are many philanthropic applications with life insurance that are very attractive to both the recipient, whether it's the charity or the children of the donor, but also to the donor themselves, as there are some great tax advantages in establishing these types of plans.

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Carly Doshi

That's great. Thank you, Rick. Robert, turning back to you. Rick mentioned a couple of items that suggests that this is all quite hands on. I mean, of course, as we know, estate planning is indeed a process. Take us through what does that process look like, particularly after drafting those initial documents that you mentioned before, and taking out the appropriate life insurance that Rick just discussed?

Robert Nemzin

Thanks, Carly. Yes, estate planning is a process. If we can go to the next slide, the first part of the process is making sure you get your documents done and put in place and those were the documents that I just reviewed, but that's just the first step in the process. We've got some good work that we need to get done after that to make sure that we're still properly taken care of. First thing is periodically reviewing your documents. Things change in life, major life events really will impact your plan, so it's a good idea to go back on a periodic basis and review your documents to see if any of those major life changes have an impact on what you may have put in writing in your documents. Think of major life events, birth or death, or marriage or divorce, retirement or selling a business. All of those are major things that could impact what you may have in writing in your plan. So, it's always a good idea to review what you have in those documents and see how you may be impacted by those major life events.

Now, in addition to that, I always like to tell clients that really at the core of all of this discussion when we talk about estate planning, it's really based on your assets and how you have titles held to those assets, because how you have title held to those assets is going to dictate what happens to those assets during lifetime, if you become incapacitated, for who may get access to those and help you with managing those, and for how those assets are going to pass following death for if they need to go through probate or how they may be legally titled. As a quick example, let's just say the only asset that you own is your home that you own with your spouse, and that house is owned jointly between the two of you. If you are the first spouse to pass, you have nothing that you own in your name, we have nothing that goes through probate, because as a matter of law, that joint asset is now owned by your surviving spouse, so that is how that property passes. Now, when your spouse passes at a later date, they now own that house in their individual name, and that house would go through probate because that's something that they now own individually. So, reviewing title to your assets is going to really help you along in this process, because that's going to help us explain to you how you have those assets structured, maybe some changes that we may need to make for those assets to pass in a more efficient manner. So, reviewing title to your assets is a really big deal in my mind after you get your documents in place, and really, that's something that can be done in advance that you can have the discussion prior to putting these documents in place as well.

Now, I wanted to focus on a couple of special assets, just so we don't lose sight of them, because you could do some great planning, and go through the time and expense to put a will and/or trust in place, but I always like to point out to clients that we need to pay attention to assets that pass by beneficiary designation. What am I talking about here? Those are things like 401(k)s, and IRAs, and Roth IRAs, and also importantly, life insurance that Rick was just talking about. Those are contracts, and if you recall, whenever you've set one of those up, there is a form that you should have been provided to fill out for who's going to receive those assets following death, and it's who you name in that form is what's going to dictate who's going to receive that asset. So, you may have some ideas for what your will or trust says for how we're going to divide assets up. That's only as good as whether or not the assets from that retirement account or life insurance end up with your estate or your trust. So, it's something that I always like to tell clients don't overlook. It's one of the biggest minefields for not paying attention to for clients for not realizing who they've named as the beneficiary of those types of assets.

And finally, on a growing basis, what we should be concerned with is digital assets. All states now have statutes on point that deal with administering digital assets. Now, what do I mean by that? Really think of anything that you do digitally, that is something that we refer to as a digital asset. That could be your iTunes account, that could be the physical hardware that you own regarding your iPhone or your laptop; it's your accounts like Google and Yahoo, anything like that. Compiling information regarding digital assets will really help your fiduciaries long term for us to figure out what you have digitally, and what you want to do with those as well following death. It's something to be aware of. I always tell clients, I think it's a good idea just to keep a log of everything that you have, as far as accounts. I'm not telling you to share those passwords with anybody right now, but at least if you're creating an inventory of those types of digital assets, that it will really help the family long term. Thank you, Carly.

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Carly Doshi

Thank you, Robert, and I'd like to remind the audience that you can submit questions to Robert and Rick using the box on your screen, and in a few minutes, we will open it up and answer as many of those questions as time permits.

Now, Robert, I have another question for you. We haven't spent time discussing taxes yet, and of course, that's really by design, because while taxes are an incredibly important topic, we know that the best estate planning strategy proceeds in a certain order and the considerations that you highlighted already about inheritance and how you wish to provide for your family, your heirs, and charity is always the first order of business and the first priority. But that said, of course, taxes are an important consideration, and so I feel like we'd be remiss if we didn't review estate taxes a little bit today. Can you provide an overview of estate tax in the US and what everyone who's listening today needs to know to achieve tax efficiency through this estate planning process?

Robert Nemzin

Yes, absolutely. Yes, thanks, Carly. Yes, so there's a lot of tax things that we need to be aware of. For federal purposes, we have three taxes that we need to be aware of. The first is estate taxes, and what the estate tax is, is it levies a tax based on the amount of assets that you own at the time of your death, and we have an exemption that we use for that. That exemption for this year, calendar year 2021, is $11.7 million per person. I don't want to focus on the numbers too much, because that number is always changing with the way tax laws are written. We may have some tax legislation coming down with the new Biden administration, but you at least need to be aware of we have an estate tax that will tax your estate at the time of your death based on whatever that exemption is in the year of your death.

So, in addition to the estate tax, we have another federal tax, that's referred to as the gift tax, so that levy is a tax based on the amount that you can transfer during your lifetime. That is subject to gift tax. Now, that number for 2021 also is $11.7 million, and what that means is you can give up to $11.7 million during the course of your lifetime and not pay any gift tax. So, if we're giving assets in excess of the gift tax exemption, we would be paying a gift tax at a rate of 40% in excess of that amount, so that's something to be aware of.

And then finally, the third federal tax that we plan for is the GST tax, and that means Generation-Skipping Transfer tax. That's another tax that was put in place that limits the amount that we can pass on to multiple generations. It's a little bit more technical of a tax that I don't have as much time that I would love to devote to it, but it's something that we need to be aware of to plan for if you're a high-net-worth individual, and that number also is $11.7 million as well.

So, those are the federal taxes. The other taxes that we need to be aware of is state taxes. Depending where you live in the state that you reside, there may be a state estate tax, and I don't want to refer to any numbers because some states have no estate tax, other states have an estate tax at varying amounts, but that is something that we need to be aware of for tax purposes, depending on what state you live in.

Finally, if you're a high-net-worth individual, there is some tax planning that we can do just to try and minimize your exposure to any of these taxes, but we've got some content that we can provide that you can follow up with at a later date that goes into a little bit more detail on that.

Carly, back to you.

Carly Doshi

Thanks, Robert. So, what about for families comprised of individuals who aren't all US citizens? You mentioned a number of taxes within the US, but what are those families need to concern themselves with when it comes to estate tax?

Robert Nemzin

Yes, so for international families, there are some very special considerations that we need to be aware of. If you are a US person and your spouse is not a US citizen, there's some special planning that we need to do with that family, just to make sure that we're not running afoul of the tax rules that apply to when we leave assets to a spouse that's not a US citizen. The technical term for that is making sure we have a qualified domestic trust in the place, depending on the amount of wealth for the family, but that is something

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that we absolutely need to be aware of. Now, if you're a non-US person, and by non-US person I mean not a citizen and not a resident of the US, we need to pay special consideration to what types of assets that you own, and we really need to make sure we look at what US situs assets that you own, and by US situs assets I mean property that is located in the US. The easy ones that we can refer to are real estate in the US and stocks in US companies. Those are the main ones that we look at, but we need to look at the amount of assets that you own in the US that are subject to US estate tax, because the exemption for estate tax purposes for non-US persons is only $60,000. That's a vast departure compared to our larger $11.7 million exemption for persons that are US citizens. So, that is something that we absolutely need to be aware of and plan for if we have clients that have an international exposure.

Carly, back to you.

Carly Doshi

Great. Thank you, Robert. Thanks, Robert, and I know that we have recently done a webinar on that topic, so if you are international or you have family members who are from multiple locations, then absolutely do tune into that program. We also have an article on the HSBC website which dives into greater detail on that topic.

Rick, back to you. Can you help explain to us how life insurance is utilized to assist folks on the line today with tax-related planning?

Rick Resende

So, great question, and if we could just go back to that first insurance slide, I believe it’s slide number three, I think it will help illustrate a little bit better some of the concepts with respect to life insurance when it comes to tax planning. There's really essentially three main reasons when it comes to life insurance and tax benefits. That's going to be a couple of slides after that. I'm sorry, I'm sorry, one slide back. There you go. So, we're going to focus on the three boxes in the middle now. The three main tax benefits from life insurance is obviously, first and foremost, the death benefit, and not only in the US, but in most countries, this seems to be a universal concept, death benefits are tax free on most applications. The exception to us here in the US is when your net worth happens to be subject to the estate tax, and if you happen to own a life insurance policy in your own name, the death benefit, although it would be exempt from income taxation, it would be includable in your estate and thus subject to estate tax, and that's why Robert can discuss a little bit more about why we set up special trusts to own these life insurance policies.

The second tax benefit that you get from life insurance policies is when it comes to permanent cash value life insurance, the cash value that accumulates inside the policy grows tax deferred. So, for clients that are typically business owners or have a need for permanent life insurance, and want to see some tax deferred growth on the excess premium that goes into those policies, this is an excellent tool for you to have your money grow tax deferred, and when you compound that over the long-term, you can have a very, very competitive return vis-à-vis other types of investments or portfolios.

Lastly, the third benefit that we see especially with businessowners is when properly structured, that accumulated cash value, over time, can be distributed tax-free to the insured. So, when this is properly structured, almost like a wealthy person’s Roth IRA, life insurance policies don’t have income limits or contribution limits when the emphasis is on cash value accumulation. Basically, you can have your cash value accumulate tax-deferred and later on, when you retire, you withdraw, obviously, the base as there's no taxes on what you’ve paid, but the accumulated tax-deferred growth can also be distributed in the form of loans from the insurance policy, and it doesn’t have to be paid back.

Now, if you pass away, if you die, what the insurance company does is it deducts from the death benefit, the amount that it “lent” to you over the years. So, a person who took out a $10 million life insurance policy and withdrew over the years or borrowed over the years, let’s say, a million dollars from the policy, the beneficiaries would eventually receive $9 million, because obviously the insurance company took a million to pay off the loan that was distributed. But very, very popular concept with businessowners and their advisors, we see this all the time, because again, it is a great way for folks, especially folks in the higher income brackets to supplement their retirement plans after they’ve exhausted the traditional retirement plans out there in the market.

Carly Doshi

That’s great. Thank you so much, Rick.

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Now, we've covered a lot, but I want to ensure that we have adequate time for questions, because we've already received some very good questions from the audience. And if you do have a question, but you haven't yet submitted it, please do so using the box on your screen and we are going to utilize the rest of our time today to get to as many questions of yours as we can.

So, to start, the first question that's come in – this is a question for Robert – "How often should a will be renewed if there are no changes in beneficiaries?" And I'm going to add something to that question and say, what are the other things that should trigger a review of your will in addition to a change in beneficiaries?

Robert Nemzin

Thanks, Carly. Yes, so, that's a great question. there's no one-size-fits-all for that question that I can give an answer for. I will tell you, my rule of thumb when I was a private practice estate planning attorney is, I would send my clients a letter every three years just to check in with them. And that letter would say, 'hey, I'm here, I'm here to review your plan with you, maybe some changes happened in your life, let's sit down and talk if you're willing to do that'. My rule of thumb when I was a private practice estate planning attorney was three years.

It could be longer than that. It could be shorter than that. But that's really based on what happens in your life. Like I mentioned earlier, the major life events that happen in and around you are really going to help lead that conversation. Did you sell your business? Well, now we're sitting on a pile of money that is now liquid. Maybe that changes what your thinking was with how you were going to deal with your assets compared to when it was a closely held business. You just got married and maybe we have some children from a prior marriage, and we have some children that your new spouse has. That's obviously going to change your plan for what you may be thinking.

So, no one-size-fits-all for when, but it's really when something big happens in and around you, that's when you should be thinking about looking at your documents and seeing if we need to make some updates there.

Carly Doshi

That's great, and I would add to that that if in doubt, then you can always reach out to your HSBC team if you have one of those big life events and you're not sure if it will impact your estate plan. Definitely reach out, and HSBC is here to help you figure that out.

Next question, Rick, this is one for you regarding insurance. The question is, "Is there anything I can do with my existing life insurance and transfer it to a life insurance trust, or do I need to purchase a new policy?"

Rick Resende

So, I hate when people tell me it depends, but it does depend in this circumstance. Just to be very general, you can transfer your life insurance (your existing life insurance policy) into, let's say, an irrevocable life insurance trust. This oftentimes occurs when we initially buy that life insurance policy, we don't realize later on that our wealth has exceeded an amount where we're now subject to the estate tax. So, you can transfer it, just be aware that there's going to be what's called a "three-year lookback period" on that asset. And Robert can certainly add to this.

What I mean by that is if something happens to you within three years of transferring that asset or that policy into the trust, that policy will eventually be clawed back into your estate and the death benefit would be includible in your estate. I would just pass that to Robert if you wanted to add any other comment with respect to that.

Robert Nemzin

No, I think, Rick, you hit the nail on the head. It is a depends-answer, where we have to look at the economics involved for what our current gift that we would be making for transferring an existing policy. We have to look at your health to see if we're expected to survive that three-year period. Maybe it makes sense to walk away from your existing policy from an economic perspective and buy some new insurance. It just depends. But that is something that should be considered when we're looking at dealing with life insurance.

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Rick Resende

And again, it pays to, obviously, sit down with an insurance advisor and your estate planning attorney or specialist to coordinate that accordingly, so make sure that both of them have your best interests to heart.

Carly Doshi

Absolutely, and that's a great piece of advice, Rick. I think all of us have seen, over the years, the benefit of working together as a team with other advisors. Clients always walk away happier when the advisors working with the client are coordinated, right. So, definitely get everyone in the same room and get them on the same page for sure.

This is another question for Robert, and it really dovetails on something that you mentioned earlier. What kind of estate plan should someone be considering when they are in that second marriage and have children from a first marriage? Specifically, the question is, "How do you take care of both?"

Robert Nemzin

Yes, that is a fantastic question, because that scenario that I gave previously that you just mentioned, Carly, is a classic case of why we need to do some planning. Because we have lots of competing interests and lots of – from a financial perspective and from a family dynamic as well, because we often want to make sure that our new spouse is taken care of. Whether there's a prenuptial agreement in play may impact what we would do for that family.

But let's just say, in the example, we want to leave assets for that new spouse, the way we would really want to help ensure that happen is create some type of trust structure which leaves the assets for the benefit of that spouse, and for whatever that spouse may need during lifetime, we would pay from that trust. But what doing that trust structure helps achieve is whatever is left in that trust following the death of that second spouse could be held for the benefit of our children that is not the children of our new spouse. That way, we don't have to worry about whether or not new spouse is going to spend all that money, because it's held within that protective structure of the trust and it's a little bit better of a safeguard than giving all of the assets to that new spouse and putting it in their pocket and hoping that they leave those assets for the children from the prior marriage.

Carly Doshi

Absolutely, and I think that that also can go a long way to calming emotions, which of course are always at a high whenever there's a loss of a family member. So, considering different groups, your spouse, your children etc, always, always a good idea, so thank you, Robert.

Another question, Robert, for you about powers of attorney, which is something that you had mentioned at the beginning when you went through those different documents. The question is, "When does a power of attorney get activated? Is it triggered upon an event?" and then if you could maybe share a couple of thoughts about who might serve as a power of attorney or who, folks on the line, might consider when they're trying to come up with who they would name as a power of attorney.

Robert Nemzin

Great, I would be happy to address that. The answer to when does a power of attorney get activated, that largely is a function of what state you live in. So, I would refer you to following up with an attorney to see what the rules in your state are, because there are two options that we can deal with. Some states permit something called a "springing power of attorney", that says the person acting under your power of attorney will not act for you until a later event when you, yourself become incapacitated. And the power of attorney document provides the mechanism for how we make that determination, but the power of your Attorney-in-Fact, does not occur until some future event when we spring into your disability.

Now, some state permit that and some don't, which means that when we sign a Durable Power of Attorney in those states, we give the power to your Attorney-in-Fact, on an immediate basis. So, we can't wait for the time in which you become incapacitated at a later date where whomever you're naming in that document is the person that's going to act for you on a current basis, regardless of your incapacity.

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Now, that answer that I just gave really leads into that second question to help us answer who is the appropriate person to do that for us, because it's not an easy answer for everybody. I would say the most common people that we would name would be a spouse or children, but that doesn't mean that's the right answer for you, because really, the ultimate question is who is most capable to handle your finances to make sure you're taken care of during your lifetime. Maybe we have all the love in the world for our children, but gosh darn it, one of our children just really is not good with money and it's really not a good idea to name that children to handle our financial affairs if we need them to do that.

So, you really need to ask yourself, who is most capable to do that, whether it's a family member, a friend, or a professional that you deal with on a current basis.

Carly Doshi

Great, thank you so much, Robert. Very, very helpful. A question for Rick, "I have a life insurance policy bought many years ago, should I review that policy periodically and I've never done that. And also, is there a benefit to reviewing the policy?"

Rick Resende

So, you and all of us, I guess, I think many people have a life insurance policy that they bought many years ago. I guess the answer is, by all means, you do need to check up on it and see if this policy is still performing as originally designed. There is a very good chance, I don't know who sent the question, but if it is like 80% of the clients I deal with that come to me with that question, they've lost touch of the original insurance agent who sold that policy or that person may not even be in the business anymore. It's unfortunately a very common thing to happen. My advice to you is you don't even need the agent at this time, but just to check up on your policy, I strongly recommend you contact the insurance company either via email or if there's an 800-number, and ask them to send you the following documents, called an In-Force Illustration, and ask them to send it to you based on current assumptions and guaranteed assumptions.

And what that is going to allow you to do is you're going to receive that document and it, basically, is going to be a current snapshot of how your life insurance policy is doing right now at this moment versus 10-20 years ago. And again, the assumptions made many years ago, especially if it's one of those universal life policies that were paying 6 or even 7% interest at the time, you could have a very, very different interest crediting rate right now in that policy, and the cash value may not be, basically, where it should be right now.

So, by all means, absolutely get that. If you have a hard time interpreting what's going on, then you do need to seek a professional to review that with you and see what alternatives you may have. It may be worth it for you to buy a new one. It may be worth it for you to keep what you have and maybe put a little bit more money to shore up that policy.

So, an individual who is licensed and who is familiar with these types of policies and can read these illustrations and these proposals should be able to give you the best advice for you to either preserve the policy or perhaps time to let go of it and see if there are other more competitive products out there that are designed for your particular situation today.

Carly Doshi

Great. Thank you, Rick. Well, unfortunately, we are out of time for today. But as I mentioned at the top of the hour, this is really just the beginning, because as Robert and Rick have pointed out, many of the estate planning decisions and the choices that you'll make are personal and they are individual to you, your spouse, and your family, and the implementation of an estate plan should always be done in consultation with a qualified attorney.

Now, to equip you with further information on these topics, HSBC has a content library on estate planning and insurance topics, including some tools and checklists which may be useful to you as you undertake your own estate planning. The person who invited you to today's program can provide you with relevant items according to your interests and they can act as a resource connecting you with HSBC's thought leadership, including some tax policy changes that our team of experts produce from time to time.

HSBC takes pride in working closely with our clients as well as your legal and tax advisors in implementing holistic wealth management solutions, including comprehensive wealth planning and investment strategies, which are in furtherance of your goals. Our teams coordinate the delivery of our advice across products and services, so if you have questions about the estate planning topics we

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discussed today or how our private banking teams can help you and your family, please be in touch with your relationship manager or your financial consultant.

Thank you so much.