Insights Live℠
Preparing your estate plan

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TRANSCRIPT

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David Peterson: Hello and welcome to *Insights Live*℠—Preparing Your Estate Plan. I'm David Peterson, Head of Advanced Wealth Solutions. This is the first in a three-part series on estate planning.

Today, we'll be talking about transferring wealth and protecting your legacy. And then in May, we'll continue our series with a discussion on the implications for generations receiving wealth, and finally, we'll wrap up with one dedicated exclusively to your Q&A. Thank you to everyone for tuning in today and for submitting questions during registration, as they help shape today's discussion.

Before we get going, however, I would like to remind everyone that Fidelity does not give tax or legal advice, and nothing we discuss today should be interpreted as tax or legal advice. The information we'll be providing is general in nature and may not apply to your personal situation. If you have legal or tax questions about your specific situation, we encourage you to talk to your tax professional or attorney.

Let's dive in. First, let's meet our panelists, Amy and John. Welcome, and thanks to both of you for joining me today. Let's start with you each briefly describing your role at Fidelity and the perspective you bring to the discussion. John, can you start us off?

John Bunn: Sure, thank you, David. I serve as the Vice President and Wealth Management Advisor for our Private Wealth Team here in North Texas. And I act as a strategic thought partner for my clients to really ensure that their investment, tax, and estate plans are all working together to achieve the best possible outcomes.

DAVID: Great, and Amy?

Aimee Kwain: Yeah, so as an Events Planner, I'm part of the Wealth Management Advisory Team, such as John's team. And John, as the lead of the team, would bring me in to help ensure that a client's estate plan is in alignment with their financial plan. This also includes reviewing estate planning documents to make sure that the documents are reflective of our client's wishes and protective against our client's concerns. I often analogize what I do to a puzzle, where John and I are here to help our clients complete that puzzle, making sure that each piece and investment, a wish, a goal, is put in the right spot so that we can get to that picture on the box.

DAVID: Great. Now, we know that many people put off creating an estate plan. So, if you're watching this webinar, you're probably ahead of the game. But one reason it can be really tough to get started is that estate planning often involves thinking about really tough topics. John, for clients who may be reluctant to think about their estate plan, how do you get them started?

JOHN: Thanks, David. Talking about death and your passing can be very difficult, so I often start out with just a general discussion on life phases, and I'd like to chat about my clients' experiences with their own families. Sometimes it's their own elderly parents or maybe a grandparent that may have needed long-term care, many of whom have already passed away.

So, I like to talk about the process, emotions, and what the outcomes were. And I've found that when we reflect on our own experiences, it can really help to accomplish two things, the first of which is it can remind us about the necessity of doing it now. Tomorrow is never promised. And secondly, it can lead to some really wonderful discussion of what went well, and then what was burdensome in those scenarios.

And after that, I'll ask clients to kind of play through a pretend scenario with me, and I love the way that Amy frames this conversation. She jokingly refers to the moment when we pass away as taking our last trip to Tahiti. And so I'll ask clients to imagine what would happen if they were to pass.

And we'll consider questions like: How's your property going to be treated? Who's going to handle the administrative burden of the estate? How are your family dynamics going to be impacted? And what often comes from that is a really lengthy list of fears.

And this kind of forms the backbone of my process. We talk through their fears, but oftentimes this leads to an even more important question, which is the flip side of that. What are your wishes? What do you actually want to happen? And once we know both the wishes and the fears, then we can really begin to formulate a plan.

Now, I do like to encourage continuum-based thinking. I don't want anybody to get caught up in right, wrong, and trying to get it perfect. Know that this is likely going to evolve over time, and it needs to retain flexibility. This is not a once in a lifetime event. So don't let that uncertainty paralyze you. Know that legislation may change, philanthropic goals may change over time, family dynamics and even family members are going to change, and that's normal, and that's OK.

DAVID: Yeah, we all know that life happens right, and with that, circumstances. And you mentioned legislation—that is continuously changing. Amy, how do you go about keeping an estate plan current?

AMY: Well, I think it's first recognizing that it's a process. It's not something that we're going to accomplish in one day, and I think the important thing is that it's not set in stone. So, I often tell my clients, prioritize your goals and concerns, and that's going to help you keep direction as to where you want to go and what you want to achieve.

Second, I talk about flexibility, making sure that your plan is adjustable so that you can pivot to the extent that you can, in the event you can't get to the plan. And third, which I think is the most important, and it kind of goes back in a circular way and ties to that first point of reviewing.

We suggest reviewing your plan at least every three to five years or when laws change or when life happens. It doesn't mean we're going to necessarily make changes but making sure that it is still what we want because, as John said, things happen.

Life happens, and our goals may not be the same. What was once our priority when our kids were 10 is going to be different now that my kids are 30 and I'm now a grandparent. Right?

DAVID: Right, right. You talk about reviewing your plan, but what if you haven't even created a formal plan? I'd like to say that everyone has an estate plan, they may just not know about it. The courts step in, and the state ultimately determines who inherits through the laws of intestacy. So consequently, you lose your voice in the matter.

JOHN: Yeah, and if you haven't created a plan, David, there's usually a set order of relatives that are going to attempt to pass assets to, which can vary by state. But that said, order may not leave the beneficiaries ordered as you wish. And at best, you're leaving your loved ones guessing at your intentions, and some loved ones may get left out altogether.

So what we want to avoid is creating unnecessary legal burdens for your closest loved ones who are going to have to go through court, you're going to have to settle the estate through probate as well. And it can be a significant time burden as well, and I can't tell you how many times I've encountered families that are still trying to chase down physical assets and things like stock certificates that are in safety deposit boxes and the like. So we want to try and avoid that and be ahead of the curve if at all possible. And depending on the state, don't lose sight of the fact that probate can be really expensive and a long, arduous process as well.

AMY: Right, and I think remembering that probate is the court process of proving or confirming the will. And so to your point, John, depending on the state and where we're located, an average probate process could last almost two years. So, thinking about what state we're in, we may want to think about engaging in ways that avoid probate when we look to pass on assets, because I'm sure the last thing that we all want is the state making our decisions for us.

So one of the first things that we can think about is using designated beneficiaries. So thinking about things like your IRA or an insurance contract where you have a named beneficiary. Alternatively, we can consider the use of a revocable trust, which is very common in those states that have a difficult probate.

And a revocable trust is very much like a will, where it determines who gets what, when, and how. But unlike a will, it does avoid probate, and it's effective during life. Assets are in the name of your trust, so that the trust now owns the assets, but you still have complete control. And the way it avoids probate is that when you pass away, the trust owns the assets, so the trust controls how those assets get passed on. And a big one is that probate also maintains privacy because it's out of the courts. But we do want to be mindful that we want to ensure that no matter what tactic we choose, whether it's a beneficiary designation or the trust, that the two are aligned because if we use both, we may not accomplish what we intended to do.

So as an example, let's just say that I have a life insurance policy which means my son, but in the trust I've designated my daughter. What do you think happens upon my death? Where would the proceeds go?

JOHN: That's going right to the son in this case, Amy.

AMY: You got it, John. And so, it's going against what my true intention was, right? I wanted those proceeds to go to my daughter. So this is where we have to be aware that beneficiary designations will generally trump my trust or my will, so you want to make sure that you're reviewing everything together.

DAVID: Right, so let's talk about that a little bit further because naming beneficiaries appears to be the easiest and most straightforward. In some states we can even transfer real estate, and we got a lot of questions on real estate. So you could transfer real estate by beneficiary designation through a transfer on death deed or, in some states, a ladybird deed.

Taking simplicity into consideration, which many clients probably prefer, why would you use a revocable trust?

AMY: Well, there are a couple of reasons, but I think it's first worth mentioning that real estate is generally treated like any other asset when we're talking about transfers. But even though beneficiary designations may be the easiest, as it relates to real estate, we have to remember that not all states allow us to pass that real estate by transfer on a death deed or a ladybird deed.

So if our state doesn't allow it, then that real estate will go through probate. So using a revocable trust will allow us to pass on the real estate and avoid probate. But we do have to remember, just like our other assets, we will have to change the ownership of the property to a revocable trust.

And this is especially important—especially if we own real estate in another state. The use of a trust can help us avoid probate in multiple states, because no matter how easy probate may be, why would we want to go through the process multiple times or more in one state?

We also want to be looking to using trusts if we have concerns about how our beneficiaries may inherit. So as an example, let's just say that I have a brokerage account that has over $1 million in it, and you name your 18-year-old son as the beneficiary. If you were to die today, your son will receive that million dollars in his name to do whatever he wants with it. And that's what's going to happen when you just name a beneficiary.

On the other hand, some clients may have concerns about their 18-year-old receiving that kind of money, and they don't want them to have full control over that money. Under your revocable trust, you can give instructions as to how that 18-year-old may inherit. Maybe you delay the distribution until the child is older, or maybe you only allow for distributions for specific purposes. And the use of a trust can also provide creditor protection and subsequent tax planning for that next generation.

DAVID: Yeah, but if we decide we don't want to leave the inheritance outright, who's going to be responsible for the distributions? By this time, Mom and Dad are gone, and we probably don't want that 18-year-old controlling the distributions.

JOHN: And David, that's a crucial selection, and that's going to fall on the role of the trustee. The trustee is going to be responsible for managing the trust assets and administering it according to the rules and the standards that you've set forth in the trust.

One of the most important duties of the trustee is going to be to ensure that the distributions made from the trust are in accordance with the rules, and oftentimes, that comes with some degree of latitude and some degree of discretion. So, the trustee is also going to be responsible for things like income and principal accounting and the trust, coordinating tax filings, and it's important to remember that the trustee has a fiduciary duty to the trust and the trust beneficiaries as well. So the trustee has to always act in their best interests.

And because of that, there can be some pretty severe legal implications for trustees if they were to ever be found to be breaching that standard. And because of that potential personal liability, we want to emphasize that you select someone who's going to have both the time and the skill to perform those duties, and I know we're going to touch on the role of corporate trustees for a moment later, as well.

But just a couple of observations that I want to make everybody aware of ahead of time that I've seen are: I often find my clients falling into the trap of naming friends that are of a similar age. And if we're creating estate documents and trusts for the first time at 50, we might not be thinking about this, but by the time that we pass away, if we pass away at age 80, it's likely that our friends are also age 80. So we want to make sure that the people that we're naming are still of an age where they can fulfill those necessary tasks themselves and not be too burdened by it.

Another pitfall that I've observed is naming siblings as trustees for each other's trusts. Now, this has the potential to create kind of a hierarchical parent-child-like relationship, and that can really strain some of those interpersonal relationships because: imagine that you've got an older son and a younger daughter, and the younger daughter is having to go to her brother and explain herself. You know, why she wants to ask for money, or what the use-case may be, so be very mindful and intentional when you're selecting your trustees.

DAVID: Yeah, that could get awkward and uncomfortable. And I suppose we should also mention the other roles that need to be fulfilled as well.

JOHN: Sure. There's going to be an executor who's the person that's responsible for actually settling the estate. So, they are going to be performing duties such as notification, telling all the interested parties about your passing. They're going to be taking inventory of the assets, they're going to be handling the tax filing responsibilities, and they're ultimately the ones that are going to be stewarding the estate through the probate courts as well.

So, we quite often see that role fulfilled by a family member. Another role of importance is the power of attorney for your financial affairs, and what that allows is that agent or that person that you're appointing—really, to engage in all financial transactions as though they were you. And because of the sensitive nature there, we do often see immediate family in that role as well, or at minimum, somebody that's very familiar with personal finance and tax considerations. And you also want to select somebody that's very well respected and trusted by the family.

The last role that I'll mention, David, is medical power of attorney and advance health care directive. And that allows you to essentially appoint somebody who's going to be making health care decisions when you're no longer able to, and that may include end-of-life decisions as well. So, as you can imagine, that task comes with a very unique and oftentimes heavy emotional toll.

So, I always strongly encourage very open communication with whoever you select in that role—really to ensure that they fully understand what your wishes are, and they're never left to guess at them. And while that may not be a pleasant conversation, in my book, that's certainly a must.

DAVID: For sure.

JOHN: And the last thing that I would note is that oftentimes not the same person. I think that we usually try and find one person who's fulfilling both the financial power of attorney as well as the health care. And as a best practice, think long and hard because that may be two very different people.

DAVID: Very good point. Now, you mentioned people aging. What about those who—they don't have friends or family who could or want to serve in these roles. What options are available for them?

AMY: Well, I think this is where a corporate trustee or private fiduciary can play a role. A corporate trustee can step in, and in some cases, a corporate trust company may even be more appropriate to manage and oversee—especially something like a special needs trust, where distributions can be tricky, because you have to make sure you don't affect government benefits. But be aware though that not all trust companies will also serve in the role of the executor or the more likely agent role, like the power of attorney or health care directive that John was mentioning.

And in those situations, I think this is where a private fiduciary, which is simply an individual who professionally serves in these capacities, can step in—in addition to being a trustee or executor, a lot of these individuals can serve in these other roles. But prevalence can vary from state to state. And in addition, remember, they're still people, right? So we're still likely to need a backup plan, because at some point, like we all do, they may want to retire at some time.

DAVID: Very good point. A key factor, regardless of who we name as trustee, is that the serving trustee understands what the client's intentions are, because we all know most of the time, the estate planning documents don't exactly give you the reason why a particular decision was made.

AMY: That's right, and I think this is where we look into who we're naming as the trustee. If we're naming families, specifically kids, I'm a huge proponent of family conversations, at a minimum to explain roles, responsibilities, and expectations when it comes to distributions, right? Give your kids your last piece of parental advice.

But I want to be—I want clients to know that these conversations need to be had on a regular basis. It doesn't mean that you have to have it every single year, but at least on a consistent basis—say, every three to five years, when clients are reviewing their documents so that the kids don't forget.

Alternatively, if family conversations are not feasible for whatever reason, or we're working with unrelated individuals, then I suggest writing a side letter or a letter of intent, or what we call a wishes letter, to the successor. The letter would be used to explain your expectations, your wants, your wishes, so that the trustee or the executor is provided a clear understanding of those expectations.

It's not a legal document, so you don't need an attorney to draft this. But it's a personal letter from you to the attorney, so also think about writing a letter to your beneficiaries explaining why you did what you did. Like you said, David, the estate planning documents don't give us the why, and especially at this point in time, emotions are running high. Misunderstandings are bound to occur. So writing that letter to each beneficiary can provide them with that color and specifically that why behind your actions and behind the trust.

DAVID: Right. So using a side letter can be quite beneficial, as are conversations to review roles and responsibility. But conversations with the families beyond that are quite impactful as well. Talking to your kids about distributions, and even as far as listening to them about their own expectations as it relates to inheritance can be impactful on how a parent designs their own estate plan. John, clients often put fair and equal on the same plane. What do you think people should be aware of?

JOHN: I think the first thing they should be aware of is fair doesn't have to mean equal, David, and oftentimes, that's not the optimal outcome anyway. So, I see clients overly concerned with trying to split things perfectly equally—two kids 50-50, three kids a third, a third, a third.

And you know, I'll give you a real-life example I encountered with a family that can help illuminate why that might not be the best pathway. So I worked with a client that was a really successful cardiologist, had two children, the son followed him into his practice and was wildly successful, tons of earned income and in the very top tax bracket, and the younger daughter was an artist. And very different income scenario, that was a different calling for her and wasn't as lucrative, so she was in a lower tax bracket.

Very close in age, but due to this, as we started to develop the estate plan, it really made more financial sense to leave things like Roth IRAs and after-tax brokerage accounts to the son because he's in the highest tax bracket. If he inherits the Roth, he's got tax-free distributions instead of absorbing ordinary income. He can receive brokerage accounts and after-tax assets that are going to be at advantageous capital gains rates. So, it made more sense for us to disproportionately leave money to the daughter that was in a lower tax bracket, and we left assets like traditional IRA and 401(k), some of the pre-tax assets to her because the federal income tax liability, as she was taking distributions, was nowhere near what it was going to be for her brother.

We also gave thought to gifting appreciated securities to the daughter to help her out during the course of her life, and we'll touch on annual exclusion gifting. But it made sense for us to give those appreciated securities to her because she was recognizing those capital gains at her own lower rates. So, those that's the first layer of consideration.

But the other things that will come out during those family conversations are that oftentimes, the wealthier siblings may feel more comfortable disproportionately weighting to those that are less financially well off, or sometimes they want their generation skipped entirely. They may have already built a estate that's close to taxable from their standpoint, and they just want out of the middle and may leave assets to the grandkids.

So you certainly want to have those conversations with your children ahead of time. There's lots of really thoughtful, intentional approaches to how we maximize their inheritance, but in no world have I found that a lack of communication is superior to communicating.

DAVID: Great. And obviously, we all agree that family conversations are an integral part of estate planning. A lot of times, I see clients whose primary goal is family connections, and they often believe that keeping a family home, or maybe more often a family vacation home, is a way, kind of, for the children to keep those connections. Most of the time, they'll just have the kids owning the home together equally, but that has unintended consequences as well, right?

JOHN: Absolutely, and it can have several. The big conversation for me, David, in those scenarios is how the children are going to view that inheritance, and who's actually going to use it, because I found very often that children move away. They, you know, may be in a completely different state. A job or family pulls them away, and they've got busy lives of their own.

So, you know there's geographic considerations to leaving those properties, and especially the vacation homes. But there's also a cost—a conversation to be had around the cost and the burden of those homes. If you're leaving a large amount of the estate in real estate, and there's not a lot of liquid assets, it may be burdensome on the kids, where they're coming out of pocket to keep up with some of the maintenance that the properties may require.

So, there's conversation around whether we want to set aside separate assets to do that, or what's fair and equal. If one of the kids is going to disproportionately use the property, are they going to equally split the expenses? Is that really fair, and what are their thoughts? So, a whole lot of considerations on that front when it comes to real estate.

And then another one that can be a little bit difficult to navigate is family heirlooms, which—when it comes to family heirlooms, I love the approach of gifting these at milestone events. So think about the birth of a child, weddings, graduations—all those are times that are just really excellent to make meaningful gifts.

DAVID: Great points, and obviously so far, we've been focusing on how our children may inherit after we're gone. However, we probably also think about how we can transfer wealth, as you just pointed out, today, and the impact that can have on our overall estate plan. One of the most efficient ways is through annual exclusion gifting.

AMY: Right, and I think that's the one most people are familiar with. But just in case some aren't aware, annual exclusions give us the ability to gift $18,000 a year per person. And as of now, there is no limit as to how many people you can gift to any one year. So I could give $18,000 to my children, my grandchildren, even you, David, and John, and every person I meet on the street if I wanted, and I could do this every single year.

And this also means that if you're married, a married couple can do the exact same thing with $36,000 a year. And it doesn't have to be cash. If I wanted to, I could give $18,000 worth of stock to my child, just like John's example with the daughter. This could be efficient tax planning, especially if I have a lot of highly-appreciated stock and my child was in that lower tax bracket. And so they would pay that smaller tax amount if I sold the stock and gifted them the cash.

I think another play on annual exclusions is putting money away for education through a 529 plan. A 529 plan is considered a tax-advantaged savings account where earnings grow federal income tax-deferred and come out federal income tax-free as long as the funds are used for qualified educational expenses.

DAVID: Yeah, and another great thing about 529 plans is that you're allowed to contribute up to five years of annual exclusion gifts, so up to $90,000, which means obviously, a couple can gift $180,000 per beneficiary. And so think about the leverage that you can get on that kind of contribution, the appreciation on it. Moreover, it's not limited to children. You can also establish these plans for grandkids as well.

JOHN: And David, just a watch-out or something to be cognizant of is that if you do contribute the maximum—you do your $18,000 gift to your child's 529 account—remember that any additional gifting in excess of those amounts is going to count towards your lifetime gift exclusion. So, what if you frontload the 529 account to the maximum amounts there? You don't want to make any further annual exclusion gifts over that five-year period.

AMY: Right. One of the questions that I often get is: Well, what if I have too much? Right, if I have left over 529 assets, the SECURE Act actually allows a person to potentially convert up to $35,000 to a Roth IRA, for the benefit of that 529 plan beneficiary. You know, things that we just have to remember is that there are limitations to this, as with a lot of things. The 529 plan has to be in effect for 15 years, and you have to be cognizant of state laws, because this wasn't adopted by every state, so we want to make sure that you discuss this option with your financial professional if this is something you want to explore.

But besides the 529 plan, we also want to touch on qualified transfers because this is something that can be quite impactful but many aren't familiar with. And the qualified plan is that I can actually pay for a person's education or medical bills without it ever being considered a gift. I can do this for anyone, and it will not be applied against either my annual exclusion, that $18,000, or my lifetime exemption.

And the only caveat is that it must be paid directly to the institution and must be for qualified expenses.

So I could pay for my grandchild's private school tuition or my daughter's doctor bill. And neither one will be considered a gift.

DAVID: Right, right. Very good point. Now, as we all know, the Tax Cuts and Jobs Act is scheduled to sunset at the end of 2025. And that change in particular is on many individuals' minds, which is the sunsetting of the lifetime exemption amount. That amount currently is $13.61 million, but it's essentially going to be cut in half—$5 million, but indexed for inflation. So, we're estimating it's somewhere in the range of $6 to $7 million.

Amy, can you elaborate on the phrase, "taking advantage of the exemption while we have it" that many attorneys and advisors are talking about?

AMY: Sure. So taking advantage of the exemption is really meaning that we should be considering—when we consider making a gift, we want to be thinking about that gift as being larger than the expected 2026 exemption amount, up to the available exemption today. Because the IRS is not going to penalize you for making a gift that exceeds that new 2026 exemption amount between now and December 31 of 2025, when the law sunsets.

So let's say that the 2026 exemption is $7 million. Now, remember, whatever I use today will affect what exemption I have remaining tomorrow, right? So as an example, if I give away $1 million today, in 2026 I will have $6 million of exemption remaining. In this example, I really haven't taken advantage of anything because if, instead, I waited until January of 2026 to gift the million dollars, I'm still left with the six million exemption, right? So that's why we want to be gifting above that $7 million if that is what we believe the new estimated exemption is going to be.

And so in this situation, this is where we don't want to let the sunset of that exemption drive your decision to gift immediately because you are going to be in the same position, regardless of whether you gift it today or in 2026. So you can take time to make that choice.

DAVID: So we go back to the old adage, don't let the tax tail wag the dog.

AMY: Exactly.

DAVID: We know that gifting during life can be impactful, very impactful, in reducing a client's exposure to estate taxes. Irrevocable trusts, which can't be changed, can help move assets and appreciation out of an estate. But a big reason why a lot of people don't set up trusts is because they're not mentally ready. They've worked hard to build the wealth. They're not quite ready to give up these assets.

Now, there are many types of irrevocable trusts. But let's talk about a common type used by spouses, the Spousal Lifetime Access Trust, otherwise known by the rather unfortunate acronym SLAT. Amy, how do these work, and how can they help appreciation move outside of an estate?

AMY: Well, you're definitely right. SLATs have become really popular. And so, a SLAT is a type of irrevocable trust in which the grantor, or what we refer to as the creator of the trust, pays all of the taxes generated in the trust. This is how it really works.

One spouse, let's say the husband, sets up the trust for the benefit of the wife, who's now a beneficiary. If money is needed, the wife can tap into that trust, as she's a named beneficiary. The husband has indirect access to the trust through his wife. So through the SLAT, we can remove assets and the appreciation from our estate by the irrevocable gift.

We further reduce our taxable estate because we're paying the income taxes on behalf of the trust. And we have that peace of mind because, to your point, mentally they may not be ready. Well, now, I could potentially still use the assets because complete access isn't lost here. But remember, the goal is not to touch the assets. That access is there just in case, like my rainy day fund.

And so, as with anything, David, we always want to be aware of the risks. So one of the risks is divorce. If the couple got divorced, then obviously the husband would lose indirect access to that trust. In addition, the grantor, our husband, will have to generally pay the income taxes for his entire lifetime. So we always want to make sure that the financial plan supports the gift.

And last, we always need to be cognizant of any state issues that may be applicable, such as community property.

DAVID: That's a great point. There's lots of trade-offs that need to be evaluated in a lot of estate planning strategies. We spent most of our time talking about how to reduce estate tax exposure through gifting, and we've mainly been focused on transferring assets to family. But the philanthropy not only benefits us through helping others, but it affords us with both income and estate tax benefits. Let's talk through how charitable endeavors can help our clients.

JOHN: Yeah, and David, I'd like to approach charitable gifting through two lenses—first of which are gifts that we want to make during our lifetime, and then the second are gifts that we want to complete in our passing. So when we think about how we want to gift during our lifetime, we're often looking at strategies such as gifting long-term appreciated securities to a charity sponsoring something like a donor-advised fund, or maybe directly to a nonprofit. And that allows you to take the full fair market value income tax deduction without having to pay the capital gains tax.

Important to note that you are limited on how much you can take in any given year. Currently, you'd be limited to 30% of your AGI, or adjusted gross income. But whatever you don't take in that first year, you can carry forward for an additional five years. It's also worth mentioning that if you decide that you're going to gift cash rather than appreciated securities, it's got a higher allowance. You can do up to 60% of your AGI there. However, that 60% value is scheduled to sunset along with the other estate tax exemptions we've been discussing. And that's going to go back down to the 50% level.

The other strategy to consider is on retirement assets. And that's known as a qualified charitable distribution, or the acronym QCD. And what that allows is for individuals that are 70.5 years or older to annually donate up to $105,000 to one or more charities, so as many as you'd like, really, directly from the taxable IRA. So think about pre-tax traditional IRAs, things of that nature. That's an easy way to benefit charity and also to reduce your future required distributions.

DAVID: Right. However, these QCDs, they have to be made directly to a charity. You couldn't contribute the QCD to a donor-advised fund. You know, retirement accounts, they're also great assets to pass to charity at death, right?

JOHN: Yeah, definitely. And that's a second lens, David. So when we think about what assets we want to leave to charities upon our passing, one of the biggest opportunities that I see missed is leaving 401(k), traditional IRA, pre-tax type assets to the charity. That's going to reduce the size of your estate because you're getting a dollar-for-dollar estate tax deduction that eliminates the income tax burden associated with leaving them to a child or another individual heir that's having to pay federal income tax on that as they take distributions.

But one of the biggest roadblocks that I've had clients run into is they're concerned that their charities are going to change over time. And who they support now may look very different than who they may want to support 10 years from now. And an excellent strategy here is to consider having a donor-advised fund as an IRA or 401(k) beneficiary because that allows you the flexibility to change the underlying charitable beneficiaries or the successors on that charitable account over time, without having to go back to the estate planning attorney's office, pay the costs, and go through the process of redrafting those estate documents.

DAVID: Yeah, that certainly helps simplify the approach. John, so you take a team approach. You bring in Amy and other folks into your conversations with clients when it's necessary. But we realize we can't do it all. So can you talk a little bit about how you work with other professionals in creating a plan?

JOHN: Sure, David. There's really three additional professionals that we work with, the first of which being the client's own attorney, the second being CPAs and tax professionals. And then the third is: oftentimes we may be working in coordination with other financial advisors and financial firms. So let's talk about the estate attorney relationships first.

Oftentimes, Amy and I are the first line for our families in discussing options and what structures may make sense. We try and get you to the two-yard line in a lot of those discussions so that you're prepared. But where we really help bring things together is in the scenario modeling. So as Amy alluded to earlier, we want to make sure that your financial plan is always able to sustain and provide for some of these gifts that we may be making to irrevocable trusts or other structures.

So we use the strength of the financial planning software that we have and the understanding of your scenario to really help strategize on the right amount of gifting and making sure that we're not out over our skis or ever putting your financial health at risk. So oftentimes we'll coordinate directly with the attorneys on that, where they're doing the drafting. And we may be helping strategize on securities to select and what may make sense in the big picture on trust funding.

But after we've been through the drafting phase, we also need to do things like updating account titling and registrations. Oftentimes we need to change the beneficiary language on the accounts. And we can also be pulled in and help to communicate that to the beneficiaries and helping prepare the next generation for that wealth transfer event when they do inherit funds.

The second of which is CPAs. So quite often we want to make sure of that tax strategy around things like Roth conversions, tax filings, and coordination with the settling of an estate, working with the attorney on forms that we're going to file if we do make gifts. We want to be able to communicate directly and intentionally with the CPAs and the tax preparers, as well.

And very similar for other financial advisors, if there's multiple advisors and multiple pools of money, we want to make sure that we're selecting that right long term appreciated asset to give to charity. And sometimes that may be at Fidelity. Sometimes there may be more attractive assets externally at another brokerage firm. So thinking about how we're going to fund trusts, what the full financial picture needs to look like, oftentimes necessitates coordination with the other firms, as well.

DAVID: Great, thank you. Now, we've covered so much during our time today. Maybe to wrap up, let's all just share a few key takeaways that you'd like to leave with the audience. And maybe I'll kick us off.

My point of view would be that you should start now regardless of your age. Don't put it off. Young people think they don't need an estate plan. I'm not rich. An estate plan is for wealthy people. It's just not true. It's different.

Older people don't want to think about it. As I age, the last thing I want to think is when I'll no longer be around. This process takes longer than you think. I updated mine probably about three or four years ago. It took me six months to make all the decisions involved to fix and update aspects of it. And, of course, with the Tax Cut and Jobs Act expiring, a lot of folks will be affected. Don't wait. You're going to find it really difficult to find an attorney that has the time to be able to help you. John, how about you?

JOHN: Yeah, David, estate planning done well is a process of communicating, listening, understanding, and then communicating all over again. So a well-executed plan is one that you want to discuss intentionally and allow all the different stakeholders to have a voice and to truly feel understood. And if you're having trouble starting that process, I'd encourage you to reach out to your Fidelity advisors, an excellent first step.

DAVID: Right. And Amy?

AMY: Well, what I would probably say is recognizing that there's no right or wrong in estate planning. There is no one size fits all. And nothing, as it relates to our foundational plans, it's not set in stone. Plans are going to look different for each and every one of us. And as every client is unique and has their own set of priorities, those can change, so be flexible. Always remember to review and communicate with all parties on a regular basis.

DAVID: Awesome. Thank you, Amy. Thank you, John, for joining today and giving us such great insights. Mark your calendars for our two follow-up shows focused on estate planning on May 9 and May 16. For more insights on other financial planning topics and timely market updates, subscribe to *Insights from Fidelity Wealth Management*℠ for our exclusive invitations to future wealth management webinars and access to our weekly newsletter.

If you have questions about anything we touched on here today, please reach out to your Fidelity representative. Thank you, and have a great day.

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[1]The new beneficiary must be an eligible family member of the original beneficiary to avoid federal income taxes and the 10% federal penalty. A family member is a person who has one of the following relationships with the original beneficiary: (1) son or daughter; (2) stepson or stepdaughter; (3) brother, sister, stepbrother, or stepsister; (4) father, mother, or an ancestor of either; (5) stepfather or stepmother; (6) son or daughter of a brother or sister; (7) brother or sister of a father or mother; (8) son or daughter-in-law, father or mother-in-law, brother or sister-in-law; (9) spouses of the individuals listed in (1)–(8) or the spouse of the beneficiary; or (10) any first cousin. Note that a new account will be required in order to change the beneficiary.

An accelerated transfer to a 529 plan (for a given beneficiary) of $90,000 (or $180,000 combined for spouses who gift split) will not result in federal transfer tax or use of any portion of the applicable federal transfer tax exemption and/or credit amounts if no further annual exclusion gifts and/or generation-skipping transfers to the same beneficiary are made over the five-year period and if the transfer is reported as a series of five equal annual transfers on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. If the donor dies within the five-year period, a portion of the transferred amount will be included in the donor's estate for estate tax purposes.

Recently enacted legislation made a number of changes to the rules regarding defined contribution, defined benefit, and/or individual retirement plans and 529 plans. Information herein may refer to or be based on certain rules in effect prior to this legislation, and current rules may differ. As always, before making any decisions about your retirement planning or withdrawals, you should consult with your personal tax advisor.

Beginning January 2024, the Secure 2.0 Act of 2022 (the "Act") provides that you may transfer assets from your 529 account to a Roth IRA established for the Designated Beneficiary of a 529 account under the following conditions: (i) the 529 account must be maintained for the Designated Beneficiary for at least 15 years, (ii) the transfer amount must come from contributions made to the 529 account at least five years prior to the 529-to-Roth IRA transfer date, (iii) the Roth IRA must be established in the name of the Designated Beneficiary of the 529 account, (iv) the amount transferred to a Roth IRA is limited to the annual Roth IRA contribution limit, and (v) the aggregate amount transferred from a 529 account to a Roth IRA may not exceed $35,000 per individual. It is your responsibility to maintain adequate records and documentation on your accounts to ensure you comply with the 529-to-Roth IRA transfer requirements set forth in the Internal Revenue Code. The Internal Revenue Service ("IRS") has not issued guidance on the 529-to-Roth IRA transfer provision in the Act but is anticipated to do so in the future. Based on forthcoming guidance, it may be necessary to change or modify some 529-to-Roth IRA transfer requirements. Please consult a financial or tax professional regarding your specific circumstances before making any investment decision.

The new beneficiary must be an eligible family member of the original beneficiary to avoid federal income taxes and the 10% federal penalty. A family member is a person who has one of the following relationships with the original beneficiary: (1) son or daughter; (2) stepson or stepdaughter; (3) brother, sister, stepbrother, or stepsister; (4) father, mother, or an ancestor of either; (5) stepfather or stepmother; (6) son or daughter of a brother or sister; (7) brother or sister of a father or mother; (8) son or daughter-in-law, father or mother-in-law, brother or sister-in-law; (9) spouses of the individuals listed in (1)–(8) or the spouse of the beneficiary; or (10) any first cousin. Note that a new account will be required in order to change the beneficiary.

On February 24, 2022, the IRS proposed new required minimum distribution rules that include revisions made from the SECURE Act. The regulations primarily affect inherited IRAs. The information or calculation(s) provided may be based on the rules in effect before the proposed regulations are finalized. You are strongly advised to consult your legal and/or tax advisor regarding your personal situation.

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