Insights Live℠
Navigating the inheritance process

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TRANSCRIPT

SPEAKERS:

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David Peterson: Hello, and welcome to *Insights Live*℠*:* Navigating the inheritance process. I'm David Peterson, head of Advanced Wealth Solutions. This is the second in a three-part series on estate planning. Last month, we discussed transferring wealth and protecting your legacy. And today, we'll dive into the implications for generations receiving wealth. Finally, next week, we'll wrap with a session dedicated exclusively to your Q&A. Thank you to everyone tuning in today and submitting questions during registration, as they help shape today's discussion.

Before we get going today, I would like to remind everyone that the information we'll be providing is general in nature and may not apply to your personal situation. If you have tax or legal questions about your specific situation, we encourage you to talk to your tax professional or attorney. So let's meet our panelists, Michelle and Rob. Can you each briefly describe your role at Fidelity and the perspective you bring to this discussion? Rob, why don't we start with you?

Rob Giordano: Thanks, David. And hello, everyone. Good afternoon. As a wealth management advisor, I lead a team of financial professionals where, together, we help families create plans designed to grow, preserve, and transfer their wealth while also focusing on trying to simplify their financial lives.

DAVID: Great, and Michelle?

Michelle Caffrey: All right, thanks, David. And good afternoon, everyone. So as an advanced planner, I partner with wealth management advisors like Rob to work with our clients and their trusted professionals to help develop comprehensive financial plans, as well as review estate plans, and focus on the transfer of wealth across generations. Through these conversations, I explore clients' goals, review what is in place today, identify potential issues, educate on various planning concepts, and assist in plan implementation.

DAVID: Great, thanks. Let's go ahead and dig in. One of the reasons estate planning is hard is that it involves an emotional event, ultimately the death of a loved one. And this could be one of life's most difficult experiences. Rob, how do you help clients get comfortable with this aspect of financial planning?

ROB: Well, David, since this is the first question, I know we have time for a quick story. This is actually a client story about Charlie. We're going to name him Charlie today. Charlie is divorced, has three children, a significant other he's been with for a long period of time, and wants to make sure that she is provided for if something should happen to him.

Also, he also owns a very successful business, where one of the children works and is actually being slated to take over the business. So needless to say, Charlie needs extensive estate and also business succession planning, and he knows it. And we had a conversation with him after about 10 years of badgering him to have the conversation.

And we sat down and we talked about his overall goals, his estate planning wishes, how he thought about fair and equal when it came to the business and his three children and had a great conversation. But after we had the conversation, I looked at him and I said, "Look, why did it take us 10 years to have this conversation?" And he simply said, "I was uncomfortable with talking about my death."

And so the first point I really want to make is that the estate planning process is emotion. None of us like to think or talk about death, but we need to get past this, not just for ourselves, but for our families and the ones that we love. So to the question, how do we get past this? Three things.

First, have a plan, and plan early. And even when you have a plan, you should be revisiting it every three to five years or if there's a change in your situation—a new marriage, divorce, residency change, new grandchildren, children. Or if there's even an estate tax law change, you should relook at the plan.

Next is really involve the family. And involving the family means involving each spouse as each other first. And when we deal with clients and a couple especially, we tend to see that one person in that relationship takes over more of the financial decision-making than the other. But when it comes to estate planning, it's crucially important that both have a seat at the table, both have a voice, and both have a vote in what they want to have happen and how the plan is created.

And also, to the second point, involve the family, is letting your family know your wishes not just for the money, but what it represents and the legacy that it will leave is important. A long time ago, a smart person pulled me aside and they said, "Rob, guess what?" And I said, "What?" And they said, "After you're gone, no one's going to remember a word you said. They're not going to remember anything that you did. But they are going to remember how you made them feel." And this is extremely important with estate planning.

The conversations that you have with your children and your family can help lead them and help that emotional loss that they're feeling. And by involving those families in those conversations, as well, it can help avoid any unintended consequences in the future.

The last point I do want to make around overcoming the emotion part of it is be organized. Write your wishes down, not just for the money but really what you want to do for your family. Make a contact list of all the players in your estate plan, your financial advisor, your estate planning attorney, and, more importantly, how to get a hold of them.

And last, use a centralized place to store all of your financial and estate planning documents. And if you're old school, maybe this means putting it in a safe. But in today's day and age, maybe it's using an electronic document storage program such as FidSafe®.

FidSafe® is a Fidelity-run platform where you can upload documents and store them in certain files. You can give access to others to all the files or even certain files. It's extremely flexible to use. And it's free to use for any Fidelity or even non-Fidelity clients.

DAVID: Yeah, thanks, Rob. I love the way that you started with the emotional and family aspects of it before you even start talking about money or assets or what you might consider transferring to different people. Michelle, you work with clients every day in an estate planning capacity. Can you explain exactly how you and other Fidelity associates help families with estate planning?

MICHELLE: Yeah, of course. So here, I think it's important to level set. So Fidelity cannot draft documents. We're not drafting estate documents or providing legal advice, as, David, you mentioned before. But we are here for our clients to help educate, inform, and assist them along the estate planning path. In doing this, we start by identifying a client's goals and wishes surrounding passing their wealth on and educating them on estate planning in general.

It's important to focus not only on the individuals or charities they wish to benefit, but the how. And the how focuses on how the access—on the access an heir will have to an inheritance. So this may pass outright, so the heir has full control. Or it may pass in trust, where distributions are subject to the discretion of a trustee.

We also want to understand who the key players are, so the executors, the trustees, the agents under the power of attorney or health care proxy. And we'll hit on all of these roles a little bit later. But note that some of these key players are critical not only at death but during life in the case of incapacitation.

We also want to understand, what's in place today? So does a client have a formal estate plan? If no estate plan is in place, we educate them on the basic documents, so the wills, revocable trusts, power of attorney for financial matters, and health care proxy. Through this education, we help to prepare the client for a discussion with their attorney and identify areas where they may wish to give some additional thought.

Now, if a client has an estate document or estate plan in place, we explain them back in plain English, so sort through that legal jargon, and refresh them on the key terms and key players. And through this process, we often identify changes they may wish to make or identify items that may be outdated. And through this process, it's also important to focus on the alignment to the overall estate plan through the review of titling and beneficiary designations.

So for example, if a client has a child listed as a beneficiary on a taxable account, but the estate plan—either the will or the trust—says the assets are supposed to pass in trust for a period of time, then there's a misalignment. Now, the beneficiary designation supersedes the estate plan. And another important note is we talk to our clients about estate tax implications, so not only at the federal level but also at the state level.

DAVID: Great. And so you started talking about different vehicles—beneficiary designations, trusts, wills. So let's just dive into that a little bit deeper and talk about how assets can be received. If you're an heir, what are the options for how assets might be passed to you?

MICHELLE: Yeah, so here, there's a few different options. So the first, as I mentioned, was beneficiary designation. So a beneficiary may be listed on a cash or a taxable account, on a life insurance policy, or a retirement account. And a beneficiary designation can include an individual's name, which indicates an outright distribution, or it can include a trust, which means the trust now becomes the owner of the asset.

The next would be via account ownership structure. So assets that are held joint with rights of survivorship automatically pass to the surviving owner. An account that's held tenant in common, meaning each respective owner owns their share, but there's no survivorship, that would pass either through the deceased owner's will, via beneficiary designation, or maybe through a trust, depending on what the titling is.

And a lot of times, for example, we may see a client, maybe a surviving spouse, that lists a child as a joint owner on an account. So really, the child can have an inside look into the account activity. But if we play this forward, if a client has multiple children, it's important to note that only the joint owner will receive that account. It's not going to pass to all of the children. So there is a difference between ownership structure versus the intended reason to have that joint owner, to really just see the account activity.

Next would be via will. So assets that are held in an individual name which do not pass via beneficiary designation will flow through the will. And passing assets through a will may delay the administration, as the assets are subject to probate. So for clients that have revocable trusts and have not titled all of the assets to the trust, assets will flow through the will first and then get to the trust.

And then, lastly, assets that are owned in a revocable or an irrevocable trust will pass via the terms of the legal document. And this trust may say the assets continue in further trust or distribute outright to a beneficiary. So there's a few different options as to how those assets will pass.

DAVID: So appreciate you going over those four ways. One question that we've heard from clients, from married couples in particular, is if a spouse is going to automatically receive all the assets anyway, is there really a need to have a will in place at all?

ROB: Yeah, the short answer for this one is yes. Every person, whether you're married or unmarried, should have an estate plan, which includes a will, along with the other basic estate planning documents, such as a health care proxy and power of attorney. And these documents should be executed for both spouses.

Now, the will serves some very important jobs within the overall estate plan. Michelle just reviewed one of them. It serves as a catch-all for any asset that doesn't have a beneficiary or has a point of direction in where it's supposed to go and who it should go to.

The second job that is important is it can help disposition any tangible assets, such as cars, jewelry, art. And it can do it directly, or, more commonly, you would attach a written list to your will on whom should get those items. And especially if there's family heirlooms or something that's been passed down and you want a specific person to get that tangible asset, it's extremely important to notate that in the will and on that written list.

As a young couple, a will is extremely important if you have minor children. It is the place where you're going to name a legal guardian for your children in case something should happen to both of you. Who's going to take care of your children if you're both gone?

And also, without a will, sometimes there can be a lot of tax inefficiencies and also added costs to your estate if there isn't a will in place. I do want to mention one other vital role that I feel a will represents. It's really that starting point for a couple to start to talk about their estate plan and open up the conversation about what's important to each of them, where they can both get together on the same page to actually structure the plan.

DAVID: Right. So we've been talking a lot about couples here. But are there specific estate planning considerations for single people?

MICHELLE: Yeah, so I think the short answer is yes. But what I will say is that every person should have a will. If an individual dies without a will, assets are distributed according to the default intestate laws of the state of residence.

Now, dying intestate means dying without a will. For married people with children, the default is generally the spouse and then the kids. But for a single person without children, the state law may provide for assets to pass to the closest relatives, like parents or siblings. And this eliminates, among other things, the ability to provide for charity, life partners, other family members, or friends.

And also, capacity issues and who may care for a single person in the case of incapacitation is also a big concern. So without having a spouse or maybe children to step in to advocate for them and make decisions on their behalf, a single person may want to think through someone to name as an agent under a power of attorney or a health care proxy.

For those who do not have a person to name, they may wish to consult with an elder care consultant who can help develop a plan for later in life. And here, of course, it's not only critical to have these documents, but ensure that the person that you name as executor or as agent knows how to access the documents—where are they? And how can they get their hands on them?

DAVID: Yeah, they're not very helpful if no one can find them—

MICHELLE: Exactly.

DAVID: —and actually follow the instructions in them. So I want to go back to this concept of assets passing through probate or will. The executor is the person who administers that process. And this is often a surviving spouse or an adult child. What are some of the key responsibilities of an executor?

MICHELLE: Yeah, so there's a few key responsibilities here. So the first would be to represent the estate for legal purposes, so to get a copy of the will and file it with the local probate court, to hire an estate attorney, attend court proceedings, and sign off on legal documents. The next would be to notify relevant people and organizations of the death, so to issue notice in a local newspaper, notify government agencies like Social Security Administration, banks and credit card companies, as well as other financial institutions.

Another would be to manage the affairs and the expenses, so to pay the expenses of the estate itself, like the attorney and the accountant fees, taxes; pay the final expenses of the decedent, so maybe medical expenses, credit card bills that haven't been paid; perhaps opening new accounts; planning for cash and liquidity needs; and having assets appraised as needed.

Another would be attending to tax-related tasks. Now, this is certainly something that is done with the help of an attorney or an accountant. But the executor is on the hook to be sure that the final income tax return is filed and that the estate tax return is filed if needed, and then, lastly, distribute the assets to the beneficiaries.

DAVID: So a lot of activities and a lot of responsibilities. How long does it take, on average, to settle an estate? So basically, if you're an heir, when might you expect to actually receive the assets?

MICHELLE: Yeah, so here, I think it's the million-dollar question, right? And I think, unfortunately, the best answer to this question is "it depends." The amount of time it takes is really dictated by many factors. And that could be the types of assets owned in the estate, so hard-to-value assets versus liquid assets, the organization of the estate from a titling and beneficiary perspective, as well as from a consolidation perspective—so does someone have their accounts at one institution or spread out amongst many—the length of time that it will take for the executor to identify all of the assets and the debts and to hire an attorney.

So if a decedent owns real estate, how long does it take to sell? Is it a good time to sell? If the real estate is a commercial property, are there leases involved? Are there multiple owners? And it's also important to note that states have varying amounts of time where an executor is on the hook for unpaid debts or assessments.

So in Massachusetts, an executor, or commonly referred to as a personal representative, is on the hook for nine months up to the value of the estate if there's an assessment from a creditor. So in this case, a personal representative may wait for this period to pass before distributing the funds to ensure that the assets are available to satisfy those debts. Also, for the estates where an estate tax return is filed, that isn't due until nine months after death.

And another note here is in order for a personal representative to be able to pay these expenses or these debts, he or she will need access to the funds. So if someone sets up beneficiaries on all of their accounts and the executor and the beneficiary are not the same person, well, they may need to go back to the beneficiary to seek reimbursement. They're going to need access to those funds. So again, this goes with the alignment of the overall estate plan.

DAVID: Good point. So the time commitment is—it's important to understand for anyone who is considering taking on this executor role. What else should someone think about before taking on the role? Or what should you consider if you're thinking about appointing someone as an executor?

ROB: So Michelle covered the roles and responsibilities of an executor. So I want to look at this at a little bit different angle. If you're asked or "voluntold" to be an executor, you should ask yourself three questions. First, are you open and willing to take on the role and, also, the financial responsibility that's behind it?

Secondly, do you have the financial and organizational skills to actually execute on the role? Now, as Michelle also noted, for the more complex parts of the estate, you are going to have a state attorney and a CPA to lean on for tax filings and things that can get super complicated. But you should, yourself, be comfortable with having some financial skills and also making sure you have organization to execute on it.

And the last that I think is the most important is, do you have the emotional capacity for the role? Remember, you may be asked to step into this role after losing a loved one or your life partner. So having that emotional capacity is extremely important. And when it comes to this, I want to define this a little bit deeper and especially when it comes to surviving spouses.

We see extremely—I would say 90% of the time in an estate plan, spouses name each other as the first person in line to be executor, to be health care proxy, to be power of attorney, to be the successor trustee of the trusts. And I think it's extremely important that the spouses together talk about that role because you're going into a role or multiple roles to execute on all this after you've just lost your life partner.

Now, I know, for me, I would have difficulty in this. So talking through that together and also maybe involving, should you have a person alongside you as a coexecutor or a cotrustee, I think, is extremely important.

In the case where you have multiple children that will play roles within the estate plan, executor, power of attorney, health care proxy, or even backups to spouses, I would advise to sit down with the children, have an open and honest conversation around the specific roles within there, and letting them know you'd like them to actually serve because—and because I think what you'll see is you may have some hand-raisers for some roles. And other roles, you may have hand-raisers for others.

So for instance, my daughter, MacKenzie, she's trained to be a nurse. She works in hospitals. She's very familiar with the health care and what happens with health care proxies, things like that, and medical powers of attorney. She would probably be the hand-raiser in my family to go, "I'll be the health care proxy," versus my son, Ryan, who is more on the financial services and banking area. He may be more comfortable becoming the executor.

And if you have a child that actually—if your children are spread out but you have one that lives in proximity, a lot closer to you, they may be better off being the power of attorney. And I think no matter which role the child takes or what role you have for any part of an estate plan, I think it's crucially important that you also understand the wishes and goals of your parents or the decedents that you're representing.

DAVID: Those are all such great points. Now that we've discussed how assets pass, let's talk a little bit about the tax implications for heirs, so those receiving assets. Taxable investment accounts get a step-up in basis, meaning the cost basis is the fair market value on the date of the decedent's death, so thereby potentially avoiding capital gains taxes. But what are the implications, the tax implications, of inheriting retirement assets?

MICHELLE: Yeah, so, David, the tax implications are actually very different. So retirement accounts are included in the taxable estate. But there is no step-up in basis. And when distributions are made from non-Roth retirement accounts, the distributions are subject to ordinary income tax.

Now, qualified distributions from Roth accounts are not subject to income tax either before or after death. And retirement accounts inherited in 2020 or after are subject to rules under the SECURE Act. There's been a lot of activity in the retirement account world since the SECURE Act.

But under that, the surviving spouses can still inherit an account as if it was his or her own, using the same calculation for distribution purposes, which may mean the spouse is or is not subject to RMDs. And that would be based off of their age. So if the RMDs, or the required minimum distributions, are required, the surviving spouse would pay tax on those distributions at his or her individual rate.

Now, most non-spousal beneficiaries, like adult children, are now limited to a 10-year window. And this means that all of the funds from the retirement accounts, like traditional and Roth IRAs, must be withdrawn by the end of the calendar year that includes the 10th anniversary of the plan holder's death. Now, certain non-spousal inherited beneficiaries may also be subject to annual required minimum distributions if the deceased owner had reached his or her required beginning date. And that means that the deceased person was taking RMDs.

And it's important to note, though, that, given regulations not yet finalized by the IRS, that if an RMD is not withdrawn this year, the IRS will not apply any penalties for a late distribution. And this is true for the applicable accounts inherited in 2020 or after. Now, these changes have contributed to planning conversations certainly around retirement accounts.

So some of those may be discussions about Roth conversions or leaving a traditional IRA to charity or planning for the best years to take a larger distribution for tax efficiency reasons and potentially disclaiming an interest in a retirement account. And of course, as with all things in life, the facts and the circumstances need to be evaluated with each personal situation. So it doesn't always apply to everybody. But looking through all those opportunities is certainly important.

DAVID: Yeah, a lot of new rules, a lot of new decision trees within the retirement space. So probably best to work with a financial professional, tax professional, legal counsel. What about real estate? Often, real estate is the largest asset of an inheritance. What are some considerations there?

ROB: So with real estate, I think the first thing to look at is, Michelle just talked about a step-up in basis, but retirement accounts do not qualify for a step-up in basis in how they're taxed. So real estate, most of the time, unless it's gifted during lifetime, will qualify for a step-up in basis. So any decisions before death to sell it, you should take the tax considerations into account.

Now, having said that, real estate, I believe, is a good opportunity to have a family conversation around the home or homes, especially when there's multiple children and/or multiple properties involved. The conversation should not only include discussions around what happens after death but, a lot of times, what maybe should happen before.

And a big question to ask the children is really, what do you want to do with the properties? And especially in the case if there's multiple children, you may get multiple answers. So if a decision is made to keep the home in the family for many years after, there are planning opportunities with specific types of trusts that can help keep it in the family and, more importantly, maybe set aside funds for upkeep of that in future costs.

When you look at real estate, we look at it in more of two categories. And I think the before and after death makes sense here. Primary homes tend to be more of a decision of mom and dad, sometimes, when you're living. When you enter into retirement, or even before retirement, or as you get older in life, you may want to downsize.

You may want to go to a retirement community. You may want to sell it just because you don't want to deal with the hassles that come with owning maybe a bigger home. And it's important to involve the children in that discussion. You are selling the home they most likely grew up in. So I think that's important.

But when it comes to vacation homes and investment properties, ones that will potentially be left in the family for many future years after you're gone, it's extremely important to have the family on board in a full and clear plan for disposition of those assets and how they're going to be taken care of after you're gone. Structures in certain types of trusts and limited liability companies, or LLCs, can really help pass real estate to those next generations in an efficient way.

DAVID: Now I want to shift a little bit and talk about another aspect of legacy planning, which is, what happens after your heirs receive wealth? Michelle, how do you help families avoid a scenario where heirs don't understand or are upset with their parent's decisions?

MICHELLE: Yeah, so I think, David, here, the best place to start would be preparing for the after. And I understand it's obviously not an easy topic. But engaging in conversations with the heirs before death can certainly help to clarify why certain decisions were made. So, for instance, why did mom and dad leave my inheritance in a trust?

Children may view this decision as a lack of trust. Oh, they didn't trust me to be in charge of my inheritance. Well, the answer is actually protection, so protection from a potential divorcing spouse, protection in the event of a lawsuit, and protection—or potentially providing estate tax minimization for the child and his or her family. Those candid conversations now can help to avoid those unanswered questions.

And another concept that comes up a lot is a side letter. So the concept of a side letter is, essentially, this is a nonbinding letter, which accompanies the legal documents. And it lays out the intent and the wishes for the use of the funds for the future trustees and the beneficiaries.

ROB: Yeah, David, I just want to make a comment on this. And, Michelle, you made a great point about having a candid conversation. When having this conversation, I think both parties, the parents and the children, have to understand that it's not just about the money. It's also about what the dollars represent and what they stand for and how and what the parents want for the children.

Communication is critical, especially when it comes to the wishes and values that are going to be passed down along with those dollars. So parents telling their story to their kids and giving them a good understanding of what the money represents and how they want it to help out the family is extremely important. And when everyone's on the same page with this, there's a lot less of an opportunity for unintended consequences and hurt feelings and a larger opportunity to help cocreate the plan together.

DAVID: Yeah, it's a great point. And it brings up another potential option for folks, which is something that we talked about in our first show last month, which is about direct gifting. As a reminder, using annual exclusion gifts is one of the easiest ways to start with no estate or gift tax implications. You can give up to $18,000 per person per year to as many people as you'd like, $36,000 as a couple. Are there areas where parents and children can work together to utilize the gifts in a very efficient way?

ROB: Yeah, David, there's definitely some ways, but I do want to take a step back. When we work with our families, we have a saying. And that is, we take all the steps to make sure that the wealth, the estate plan, and everything is prepared to pass to the family.

But it's just as important to make sure that those next generations are prepared to receive the wealth that they're going to get. And this doesn't happen overnight. It doesn't happen in one conversation. It happens over a period of time. It's a progression. Education leads to conversation. And those conversations build upon each other over time.

The children that have good financial hygiene and habits because of those conversations, when you are talking with the kids, the conversations can become easier over time. When we have a parent-child relationship, it usually starts out like this, as a hierarchy. But over time, what we hope is that, over time, it becomes more like this, into peership.

I think it starts out with what I call babysitting money. My daughter, McKenzie, when she was 12 or 13 years old, came to me like this with a fist full of money after her first babysitting job. And that was my first opportunity to pull her aside and teach her about things like spending, budgeting, saving for the future. As our children get older, and maybe they're in their mid to late teens and they get their summer job and they start earning a little bit of money, maybe they should be opening up a Fidelity Youth® Account and learn more about investing and the power of compounding and the way to put away money for the future.

And as they get into their first careers and start having a family of their own and creating their own wealth, they should talk to a Fidelity advisor and create their own plan. So my point to this is that it is not a one-time thing. It happens, and it's continual over time. And using those annual exclusion gifts, David, that you just described is a great way to help parents and children cocreate or use that to come together.

And it does many things. The first thing, by giving the gift, it can help you reduce your estate, which can help from a federal and potential state estate taxes if you live in a state that has a state estate tax. The second thing I believe it does that I think is important is you get to see the impact you're making to your children and grandchildren.

Now, I don't know, when you leave the Earth, whether you still see it. I'm hoping that we do. But I know, when you're here, you definitely will see it and feel it. You help them out with things like education, retirement savings, first-time home purchases. Or maybe even just by giving them a gift, you're taking the pressures off of a growing young family just getting started out.

The second thing I think that is very important is when you give that gift, it's another opportunity to influence good financial hygiene and good habits, but also to have another conversation about it and go from here to here. I do want to mention one other way besides those exclusion gifts that you can make an impact to your family and even others. And that is there are exclusions from that for education and health care purposes.

Now, you can't write a check to the person or to your family for it. But if you make a check directly payable to the educational institution or the health care facility, it does not count towards your annual exclusion gift or even taking it away from your estate tax exemption, as well. And that's another great way that you can help and impact and help those next generations or anyone that you really want to help in a tax-efficient way.

I do want to mention one other way that families can come together through gifts. And it's not gifting to each other. It's through philanthropy. Families that have created wealth, a lot of times, feel as though they want to give back. And they want to give back to the people and places that have helped them throughout their lives and that have helped their family and their friends and the things that they feel strongly about.

Family philanthropic giving is a great way to get together and get on the same page. When you have wealth and you have philanthropic tendencies, a lot of times, you do want to pass that down to the next generations. And involving your children and grandchildren in that giving is a great way to do it and to pass down those values, as well.

At Fidelity, we have a great program. It's called the Fidelity Charitable® Gift Fund. It's actually what we call a donor-advised fund that can streamline your gifting. And there's actually ways that you can actually involve the family in that giving, as well. So if that's something that you're interested in, I'd urge you to talk to your advisor.

DAVID: Awesome, Rob. Thanks for the summary there. You said a lot of great things. One of the things that really resonates with me there is the power of compounding. There's few things in this world that can beat the power of compounding.

So we talked about wills. We talked about beneficiary designations and titling. We talked about gifting during life. Let's revisit trusts. Under what circumstances might someone opt to pass assets through a trust?

MICHELLE: Yeah, so, David, generally an inheritance is passed in an irrevocable trust to prevent a windfall of funds being passed to an heir all at one time and to provide protection, as I mentioned before. Additionally, trusts are used so the donor, meaning the person creating the trust, can dictate how the funds should be used.

So for example, some trusts are to be used for educational purposes only, to provide distributions on a needs basis only. Or some can be very flexible in regards to distributions. An irrevocable trust can assist by providing limits on access to the funds. So distributions may be at the discretion of the trustee or only available at certain ages or for certain reasons.

And a trustee may evaluate the amount of the distribution request relative to its size, the use of the funds, the beneficiary's other assets, and interests of all of the beneficiaries, meaning current and remainder as applicable, as governed in the document. And delaying an inheritance may provide time for the beneficiary to learn financial concepts like the importance of planning.

An irrevocable trust can be funded during life or at death. So for those created during life, they can receive a small or a larger gift, which may use a person's estate exemption. There's, of course, tax benefits to this, so shifting not only the asset but the future appreciation out of the taxable estate. But also, an irrevocable trust may be used to prepare the beneficiary for what may be a much larger amount passing as a result of a death.

So the trust may allow the donor to have more candid conversations with the beneficiary while only revealing a smaller dollar amount and testing how that beneficiary views or uses the trust assets. So it's a way to get started, if it makes sense.

DAVID: Yeah. And if you're considering a trust, you'll need to appoint a trustee. Similar to the discussion we had earlier around executors, if you've been named as a trustee or are considering the role, what do you need to know?

MICHELLE: Yeah, so I would say, before agreeing to be a trustee, it's important to understand the key roles. And the first is custody and recordkeeping, so principal and income trust accounting, as well as annual tax filings. The next would be trust administration, so managing distribution requests, saying, do these align with the governing document?

And then, also, investment management, so aligning the investments to the needs of the beneficiaries and the long-term goals of the trust, as well as risk management. So developing an investment strategy suitable to the overall objectives of the trust. Now, certainly there are attorneys and accountants and investment advisors that can be hired in all of these roles. But this is what the trustee is really responsible for.

And then for those looking to name a trustee, there's some questions that they may want to ask. So does this person or prospective trustee have the required skills and the time to oversee the trust? If the trustee named is a surviving spouse, does he or she feel comfortable with the role? Or would it be too overwhelming? And that could present, as Rob mentioned before, an opportunity for a cotrustee arrangement.

And does this person understand the goals and the visions of your estate plan? If the person has a close family relationship, can he or she separate their feelings and judgments when asked about a distribution? Maybe the use of a side letter would be helpful there. And what's their relationship to you and to the beneficiaries? Is there a conflict of interest? Could this role create disharmony between family members? And then, also, how are the fees structured? So lots of things to consider.

DAVID: Yeah, for sure. For heirs that are receiving wealth, what steps should they take to prepare for receiving that wealth?

ROB: I want to try to keep this one short. First off, do your own planning. Prepare yourself. And if you have a family, prepare your family for their needs. Understanding your own needs and your family's needs for that inheritance or that money that's coming down is important.

Secondly, talk with a Fidelity advisor to create your own plan. And more importantly, integrate your own plan with those future dollars or future inheritance. This is especially important when you're trying to plan for your own family, your own children, and potential grandchildren or grandchildren that you may have right now.

The second thing is talk with your family and with your parents, with your siblings. Be open and honest. You may not have the final vote in the estate plan. But you definitely have a voice. And giving that voice to your parents and letting them know how that money is going to impact you, your plan, and your own family is going to help them make better and easier decisions.

And this comes to the last point, is truly understand your parents' story. It's important to understand your parents' wishes and values and why and how they want this money and how they want it to help both you and your family in the future. And where all possible, cocreate the plan.

DAVID: And what if a loved one has special needs? How can trusts assist a special-needs heir?

MICHELLE: Yeah, so, David, a special needs trust is essentially a legal entity that's set up to hold assets for the care of a loved one with special needs or disabilities. It's important to remember that many needs-based government disability programs have income and asset limits. So something like an inheritance or a financial gift could increase a loved one's total asset value above the limits and harm their eligibility for assistance.

A special needs trust is used to supplement but not to replace the aid a beneficiary may be receiving, such as Medicaid or SSI. Now, like any irrevocable trust, there's a trustee making decisions on whether or not to pay those expenses or to make distributions. And special-needs planning, I would say, is complex. And consultation with counsel with deep knowledge in this area is critical.

DAVID: Yeah, and maybe another variation for blended families, how can a remarried couple make sure their estate plan now serves both of their objectives?

ROB: Estate planning for blended families can be way more challenging. So having a well-executed and, more importantly, a well-communicated plan is extremely important. We see this often. And there's no set playbook or set of solutions. Blended families are all very different and all come with very unique dynamics that are within the family.

It all starts with the couple themselves defining their objectives and goals together. And when talking to spouses of remarriages, one of the biggest hurdles sometimes is defining what we call "fair and equal." And they need to have a conversation about this and define "fair and equal" together and come to an agreement.

Once they've come to an agreement and have clear objectives, they should be seeking the advice of professionals, their financial advisor, their estate planning attorney, to help them really build the plan. When you do have blended marriages, marital trusts are a common way to help plan for this. Marital trusts will allow you to set aside money for a surviving spouse but also make sure that children or grandchildren can be there for the remainder and beneficiaries.

DAVID: This has been awesome. We have a couple, few minutes left. Maybe to wrap up, we'll all share a few key takeaways that we'd like to leave our viewers with. And maybe I'll start. One of my key takeaways is that when someone passes, there's a common expectation that assets can be transferred immediately. That, unfortunately, is not necessarily the case.

Some assets can indeed pass relatively more quickly than others. But even in those cases, it's probably not overnight. If there is a more immediate need for cash, then that should be considered as part of the planning process to ensure that certain techniques can be implemented for a more timely inheritance. Rob, how about you?

ROB: Yeah, my key takeaway is estate planning is emotional. Our personal lives can be complicated. Our financial lives can be complicated. When you put the two together, it even gets more complicated. Money, wealth, and estate planning conversations—they're charged topics with a lot of emotion involved.

As a parent, tell your story to your kids. Give them insight and a voice into your estate plan. As a child, listen to your parents. Understand their wishes and, more importantly, the values that are behind them. If you can do this, it's tremendously going to help out in the process, where you're going to be able to cocreate the plan together and avoid any other unintended consequences or bad feelings in the future.

DAVID: Great. And Michelle?

MICHELLE: Yeah, I think my key takeaway would really be estate plans do not only apply to wealthy people or to older people. Life is unpredictable. And having a well-thought-out estate plan allows you to ensure your wishes are carried out. The more thought and work put into place today will help to reduce those headaches for the executors and the trustees. And an open and honest dialogue with the heirs can help to avoid those unanswered questions and unsettled feelings.

And with most things in life, estate planning takes time. It's not an overnight process, so the sooner the better. And then, in addition to reaching out to a Fidelity representative, a client can also access various resources on our website, like the Fidelity Estate Planner® tool to help get started. So there's lots of resources out there for all of our clients.

DAVID: Awesome. I want to thank you both, Michelle and Rob, for joining today and giving us such great insights. Mark your calendars for our follow-up show May 16, as I mentioned, dedicated solely to your questions. For more insights on other financial planning topics and timely market updates, subscribe to *Insights from Fidelity Wealth Management*℠ for exclusive invitations to future wealth management webinars and access to our weekly newsletter.

And be sure to follow the new Fidelity Wealth Management page on LinkedIn, where you'll be able to connect with the community and discover the latest insights and perspectives from Fidelity's financial advisors, portfolio managers, and thought leaders. If you have any questions about anything we touched on here today, please reach out to your Fidelity representative. Thanks again, and have a great day.

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*Transfers of assets during lifetime or at death may also be subject to state estate, inheritance, and/or gift taxes depending on state of residence or the location of real property.

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; and (10) any first cousin. Note that a new account will be required in order to change the beneficiary.

For a distribution to be considered qualified, the 5-year aging requirement has to be satisfied, and you must be age 59½ or older or meet one of several exemptions (disability, qualified first-time home purchase, or death among them).

On February 24, 2022, the IRS proposed new required minimum distribution rules that includes revisions made from the SECURE Act. The regulations primarily effect 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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