Simple estate and tax planning for dentists

Failing to plan can have a devastating effect on your dental practice and your loved ones

By Stuart Oberman, Esq.

Statistically, 70 percent of all dentists will die without a will, and that number could be higher for dentists who fail to implement tax-saving strategies during their lifetime.

A failure to plan could directly affect the amount of estate taxes your estate may be required to pay to the IRS, and the amount of taxes you may be required to personally pay on a yearly basis. In some cases, estate taxes may be substantial.

Outlined below is essential estate planning and tax information you need to know today, so you can plan for tomorrow.

Make a will
You should state precisely who will receive your property at the time of your death (i.e., spouse, children, etc.). If you have minor children, you should appoint a guardian for your children. By preparing a will, you not only plan for the distribution of your property, but you also plan for your children’s future.

Consider a trust
There are two kinds of trusts, an irrevocable trust and a living trust. An irrevocable trust may be used for a variety of reasons, such as to avoid potential estate taxes, as well as asset protection.

If you have a life insurance policy, one of the easiest ways to avoid estate taxes on your life insurance proceeds is to establish an irrevocable life insurance trust (ILIT).

A properly prepared life insurance trust may protect your life insurance proceeds from estate taxes. A living trust is used to control your property while you are living and to avoid probate.

Make health-care directives
By creating a health-care directive, you will be able to set forth in writing your health care wishes and intentions. Unless you outline in writing your health care wishes and intentions (life support, coma, vegetative state), someone other than a loved one may be forced to make life and death decisions for you.

Make financial power of attorney
A general power of attorney will allow you to appoint a trusted person to handle your finances if you are unable to do so yourself. If you become incapacitated or disabled, who has the authority to handle the day-to-day operations of your dental practice?

Select a guardian
If you have minor children, you should appoint a guardian to handle the day-to-day operations of your dental practice.

Protect your children’s property
If you have minor children, you should appoint a trustee in your will (or trust) to handle the disposition of your children’s property in the event of your death.

If you fail to plan, your children may receive a substantial amount of property (land, dental practice, etc.) when they turn 18 years old. How long would $500,000 last in the hands of an 18 or 20 year old? Your will (or trust) should state what age(s) you wish your children to receive their property (21? 25? 50?)

File beneficiary forms
If you have a bank account or investment account, you may be able to designate a beneficiary for those accounts.

Many bank and investment accounts are “pay on death accounts,” which will allow the funds in such accounts to be paid directly to your designated beneficiary. In most cases, “pay on death accounts” are excluded from the probate process.

Consider life insurance
If you have substantial assets (home, investments, dental practice), you must have life insurance. However, in order to avoid estate taxes (which may be as high as 51 percent of your estate), you should consider establishing an ILET (irrevocable life insurance trust).

Understand estate taxes
If you have accumulated any type of assets whatsoever (house, bank account, investments, life insurance and especially a dental practice), you must take the necessary steps in order to reduce your estate taxes. You have worked hard all of your life, and if you fail to plan, your family may lose everything.

Protect your business
If you are the sole owner of a dental practice or have a partner, you must have a business succession plan.

A succession plan should specifically outline what happens to your dental practice or your ownership interest in the dental practice at the time of your death. If you have a partner, you must have a shareholder’s agreement.

Store your documents
In order to ensure a smooth estate planning transition, the following records should be easily accessible:

• Will
• Trusts
• Insurance policies
• Real estate deeds
• Certificates for stocks, bonds, annuities
• Information on bank accounts, mutual funds and safe-deposit boxes
• Information on retirement plans, 401(k) accounts or IRAs
• Information on debts: credit cards, mortgages and loans, utilities and unpaid taxes

As the owner of a dental practice, you constantly deal with the day-to-day pressure (accounts receivable, employee problems, marketing, patients, etc.). In the rough and tumble world of dental practice management, don’t forget to manage your own estate.

Key estate planning numbers for the year 2010

Estate tax reform: As of December 31, 2009, Congress had not yet acted to reform the existing estate tax law.

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You Need A Partner On Your Side
Accordingly, as of Jan. 1, there is a one-year repeal of the estate tax. After 2010, unless Congress has acted, the estate tax will revert to the rules that existed before the Economic Growth and Tax Relief Reconciliation Act of 2001 where the highest estate and gift tax bracket is 55 percent, and the applicable exclusion amount is $1,000,000.

**Annual gift tax exclusion**
The gift tax annual exclusion remains at $13,000 for 2010.

**Generation skipping transfer tax**
As of Jan. 1, there is a one-year repeal of the generation skipping tax. Congress may attempt to reform the estate and generation skipping tax law in 2010.

If Congress does not act, the generation skipping tax will revert to the rules in effect before the Economic Growth and Tax Relief Reconciliation Act of 2001.

**Retirement plans/defined benefit dollar amount**
For defined benefit plans in 2010, the maximum benefit at age 65 under IRC Sec. 415(b) cannot exceed the lesser of (1) $195,000 or (2) 100 percent of the participant’s average compensation for his/her high three years of active participation.

**Defined contribution annual maximum**
The annual limitation applicable to defined contributions plans for 2010 remains at the lesser of (1) $49,000 or (2) 100 percent of the participant’s annual compensation.

**Elective deferral limit for SIMPLE IRAs and simple 401(k) plans**
The limit on SIMPLE plan contributions remains at $11,500 in 2010. Catch-up contribution limits for individuals age 50 and older is $2,500.

**Traditional IRA and Roth IRA**
The traditional IRA and Roth IRA contribution limit for 2010 remains at $5,000. The IRA catch-up limit is $1,000 in 2010.

**Personal exemption phase-out**
Taxpayers are entitled to claim a personal exemption for themselves and for their dependents. This personal exemption decreases their income subject to tax. The personal exemption amount remains at $3,650 for 2010. The personal exemption phase out is repealed for 2010.

**A final word**
As with any type of estate planning and yearly tax planning, you should always seek the assistance of a CPA, financial planner, your financial advisor and an attorney.

Proper estate and tax planning can be very easy. However, the consequences of failing to plan can have a devastating effect on your dental practice and your loved ones.

**About the author**
Stuart J. Oberman, Esq., has extensive experience in representing dentists during dental partnership agreements, partnership buy-ins, dental MSOs, commercial leasing, entity formation (professional corporations, limited liability companies), real estate transactions, employment law, dental board defense, estate planning, and other business transactions that a dentist will face during his or her career.

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**Proper estate planning can be very easy.**

Traditionally, estate planning was considered a complex and intricate process that required the expertise of a professional. However, with the right approach and understanding, estate planning can be simplified and made accessible to everyone. Here are some key points to consider when planning your estate:

1. **Estate Tax Considerations**
   - As of Jan. 1, 2010, the one-year repeal of the estate tax begins. This repeal will remain in effect for one year unless Congress acts otherwise.
   - After 2010, unless Congress acts, the estate tax will revert to the rules that existed before the Economic Growth and Tax Relief Reconciliation Act of 2001.
   - The highest estate and gift tax bracket is 55 percent, and the applicable exclusion amount is $1,000,000.

2. **Gift Tax**
   - The gift tax annual exclusion remains at $13,000 for 2010.

3. **Generation Skipping Transfer Tax**
   - As of Jan. 1, 2010, this tax is repealed for one year. Congress may attempt to reform the estate and generation skipping tax law in 2010.

4. **Retirement Plans**
   - Defined benefit plans in 2010 cannot exceed the lesser of $195,000 or 100 percent of the participant’s average compensation for three years.
   - Defined contribution plans for 2010 remain at the lesser of $49,000 or 100 percent of the participant’s annual compensation.

5. **Contributions to SIMPLE IRAs and simple 401(k) plans**
   - The limit on SIMPLE plan contributions remains at $11,500 in 2010.

6. **Traditional and Roth IRAs**
   - The traditional IRA and Roth IRA contribution limit for 2010 remains at $5,000. The IRA catch-up limit is $1,000 in 2010.

7. **Personal Exemption**
   - Taxpayers are entitled to claim a personal exemption for themselves and for their dependents.
   - The personal exemption amount remains at $3,650 for 2010.

8. **A Final Word**
   - Proper estate and tax planning can be very easy. However, the consequences of failing to plan can have a devastating effect on your dental practice and your loved ones.

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