

## **LGBT FINANCIAL PLANNING**

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### *Top 10 Things You Need to Know*



#### **1. COMPLETE ESSENTIAL ESTATE DOCUMENTS**

##### ***Protect yourself and your loved ones***

The three basics? A will, a power of attorney for healthcare and a durable power of attorney for property should be considered. Without a will, your intended beneficiaries may never receive what you hoped to give them. For those who are partnered and live in a state that doesn't recognize their relationship, the results of dying intestate (without a will) can be particularly disastrous. When there is no will, state law typically transfers the assets of the deceased partner to his or her blood relatives, ignoring all other relationships, no matter how longstanding.

Equally important, failure to execute a healthcare power of attorney, living will and/or healthcare directive may leave you vulnerable during a period of illness or incapacity – and leave your partner or friends without access to the healthcare professionals coordinating your care. Similarly, in the event of a stroke, heart attack or car accident, failure to execute a durable power of attorney for property may leave your assets unprotected.

#### **2. CONSIDER USING TRUSTS IN YOUR PLAN**

##### ***For flexibility and privacy***

Like a will, a trust allows you to designate which individuals and/or charitable organizations will benefit from your wealth and clearly states the rules of the road for their receiving your assets. Unlike a will, a trust can be effective during your lifetime, providing protection in the event of illness or incapacity. In addition a trust provides privacy. Unlike a will, a trust document does not have to be filed with court authorities upon death.

#### **3. SELECT ADVISORS WITH LGBT PLANNING EXPERIENCE**

##### ***Experience matters***

You should assemble a team of professionals – financial advisor, estate planning attorney and accountant – who have successfully developed financial and estate planning solutions for other LGBT clients. You deserve advisors that come to the table with experience and solutions and are not learning along with you. Review your wealth transfer plan with your advisors at least every five years and, more frequently, whenever tax laws or your life circumstances change significantly.

#### **4. CONSIDER GIFTING**

##### ***Favorable gift tax laws remain***

Married LGBT individuals can now give unlimited assets to their same-sex spouse, free from federal taxes, even if they are living in a state that does not recognize their marriage. Gifting may also be a tax-efficient strategy to transfer wealth to non-spousal loved ones. The American Taxpayer Relief Act of 2012 (ATRA) allows everyone – LGBT or not – to transfer up to \$5.25 million to others tax-free (adjusted annually for inflation). Consider giving some of your wealth to your



domestic partner, your partner's children, nieces, nephews, etc. Assets that have lost value but have the potential for future appreciation can make excellent gifts. That future appreciation – no matter how great – should not be subject to gift or estate tax. Consult your advisor team regarding the tax rules and any tax filing requirements in order to qualify for tax-free treatment.

## 5. AVOID THE PITFALLS OF ASSET TITLING

### ***Consider the alternatives***

The first impulse of LGBT couples may be to title high-value assets, such as a residence, in joint tenancy with rights of survivorship. In the case of married couples, that can make a lot of sense since there would be no tax consequence. For unmarried couples, this form of titling can create potential gift tax issues, as well as subject the same asset to estate tax twice – once in the estate of the first-to-die and once in the estate of the surviving joint tenant. If unmarried, consider alternatives such as *life estate* that can give your surviving partner full use of a residence for their lifetime without actually transferring the asset to them. Consult your advisor team before making any significant purchase or transferring ownership of significant assets.

## 6. UNDERSTAND THE FINANCIAL IMPACT OF MARRIAGE

### ***It is not as simple as it may seem***

The recent ruling of the U.S. Supreme Court gives married same-sex couples full federal tax benefits that come with marriage. Marriage may lower or increase the federal income taxes you and your partner owe, depending upon your individual income levels. Keep in mind state income tax benefits and some federal benefits (such as Social Security survivor benefits) that come with marriage may end if you move to a state that does not recognize your same-sex marriage. Knowledgeable advisors can help you create a wealth management plan designed to minimize tax while maximizing financial security for you, your partner and your loved ones.

## 7. IF YOU WANT TO PARENT, GET PROFESSIONAL ADVICE

### ***Seek counsel from an adoption or surrogacy expert***

The new age of LGBT parenting can be fraught with complex legal, medical and financial challenges. Attorneys and consultants who specialize in same-sex adoptions, artificial insemination and surrogacy can advise you on best practices, in a way that secures your role(s) as legal parent(s) to the extent possible under state law.

## 8. REVIEW YOUR RETIREMENT ACCOUNT AND LIFE INSURANCE BENEFICIARY DESIGNATION FORMS

### ***Avoid unwelcome surprises***

The beneficiaries you name in your life insurance policies and your retirement accounts – whether pension, 401(k) or IRA – will become the owners of those accounts on your death, despite any conflicting provisions in your will or trust. Best advice: Treat your beneficiary designations as part of your estate plan and have them reviewed periodically with other estate planning documents. With professional advice, your beneficiary designations are more likely to reflect your intent – and minimize taxes.

## 9. BE AWARE OF THE MANY WAYS TO GIVE TO A CHARITY

### ***Create win-win situations***

In addition to simple donations of cash or stock, there are also more sophisticated techniques. These may allow you to support your charities, provide yourself and your intended beneficiaries with needed cash flow and reduce your estate taxes. Some extra thought upfront can help you achieve the most favorable results.

## 10. CONSIDER USING A CORPORATE FIDUCIARY

### ***If you have significant assets, fulfilling your intent may be best served by the use of professional administration***

A corporate fiduciary like Northern Trust can be named in your estate documents as executor, co-executor, trustee or co-trustee. An experienced corporate fiduciary will work to distribute your assets as you have directed in your documents. Naming a corporate fiduciary can be particularly helpful if you expect your plan to be challenged by hostile family members, if you have a complex estate plan or if you simply don't want to burden friends and family members.

### **TO LEARN MORE**

For more information, contact John McGowan, national practice leader, LGBT and Non-Traditional Family Practice at 312-557-1394 or [jm59@ntrs.com](mailto:jm59@ntrs.com), or visit [northerntrust.com/lgbt](http://northerntrust.com/lgbt).

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