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PRACTICE MANAGEMENT: Using 529s For Estate Planning
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Financial adviser Clint Gharib's client had a relatively simple estate planning request. The client, who owned a consulting business, had roughly \$5 million in liquid assets and wanted to set aside \$1 million immediately for his five children. He was 59 at the time, in 2007. His children were between 17 and 28 years old.

But Gharib, director of managed products and insurance at Atlanta-based brokerage and advisory firm J.P. Turner & Co., didn't opt for the simple solution of setting up a trust. The reason: The client had two goals - to remove the \$1 million from his estate and to maintain some control over those assets.

With a revocable trust, any assets in the trust would also have remained in the client's estate. And the client would have little to no control over assets in an irrevocable trust.

"People hear 'trust' and think it's the right approach, but they don't think about what's involved," says Gharib.

Other options included setting up an annuity, which would allow for tax-deferred growth, or investing the \$1 million in municipal bonds to minimize the gift's taxable impact.

Gharib went in another direction: As several of the children were preparing for college or considering graduate school programs - and as the client said he was prepared to foot the bill for those education costs - Gharib suggested opening up several 529 college savings plans.

These accounts are most commonly used to save for college costs, as they offer tax-free growth if the money is used for qualified educational expenses. But 529s also offer several estate planning benefits. For starters, 529 plan contributions are removed from a donor's estate although he or she retains nearly full control over that money: The donor can change beneficiaries (with certain limitations), manage the plan's investment mix and even withdraw funds.

"Most people think of 529 plans only as education tools," says Gharib. "The client was going to pay for his children to go to school anyway, so why not also remove that money from his estate and take advantage of tax-deferred growth, too?"

The use of 529 plans satisfied the client's main goals, but settling on how the plans would be set up - and how many would be set up - required some discussion.

Under IRS rules, individuals in 2007 could give tax-free gifts of up to \$12,000 each to an unlimited number of recipients, and couples could give \$24,000. (In 2009, those totals rose to \$13,000 and \$26,000.) As a result, the client and his wife each could give \$12,000 to each child every year.

But 529 plans have a special benefit: They allow five years of gifts to be made in one year, meaning the client and his wife could immediately contribute \$120,000, tax free, to 529 plans for each child. (There are some potential drawbacks to the five-year gifting rule: If, for example, the donor dies before the five-year period is up, a pro-rated portion of the gift will revert back to his or her estate.)

The client decided to fund each of the five 529 accounts Gharib set up with \$200,000, reaching his goal of immediately giving away \$1 million. The \$80,000 above the \$120,000 tax-free gifting limit for each child was applied to the client and his wife's \$1 million lifetime gift tax exclusions.

Gharib recommended the client set up several more 529 accounts - for grandchildren and other beneficiaries - to avoid eating further into the lifetime exclusions, but the client balked.

"He didn't want to do that because he didn't want to deal with all the paperwork and statements coming in the mail. He wanted to keep it clean and simple," says Gharib. "You want to make sure you're helping the client, but that you're also being mindful of what they want. There's always some give and take."

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