Media Mention: Eldridge Dodson's Insightful Discussion on Wealth Management

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Planning for a secure financial future should be a top priority for everyone.

But proper wealth management involves the consideration of multiples factors that will affect how you plan for the long-term.

Recently, the Greater Wilmington Business Journal asked four local professionals to share financial planning and accounting strategies for managing wealth. This article focuses on the Q&A responses given by attorney Eldridge Dodson, Ward and Smith's board-certified specialist in estate planning and probate law.

From the Insightful Discussion:

What is your outlook for the stock market in 2019?

My role as an estate planning attorney is to work with clients to transfer their assets to beneficiaries of their choice in the most effective and tax-efficient manner. I do not give investment advice.

However, staying current on interest rates and the financial markets is often critical to my ability to provide the best advice to my clients. For example, for transferring assets are more advantageous when the markets are down or when interest rates are low. Some powerful estate tax-reduction strategies were completed during the Great
Recession for clients with taxable estates. Clients were able to transfer assets at a time when values were low, shifting appreciation once the markets recovered outside the client's taxable estate.

Strategic timing as to market highs and lows can make a substantial tax difference in planning for clients and their families. Recognizing those opportunities is part of my job.

What is the most common mistake people make in wealth management?

The most common mistake we see is the failure of clients to plan for their incapacity, for their long-term care, or for the care of their family members after their death. An individual's failure to plan may result in them having insufficient assets to care for themselves or their family.

If someone fails to plan for their incapacity, their inaction may result in the court choosing someone to serve as their guardian for the remainder of their life. A guardianship can be an expensive and burdensome process. If they fail to plan for their death, the court will choose their executor and North Carolina Statutes will control who inherits their assets.

Are there benefits to working with a wealth advisor versus a robo-advisor?

We have found that clients benefit from working with a financial advisor. In addition to giving investment advice, often financial advisors have a strong relationship with their clients and are a great help in budgeting for retirement and ensuring the client has an adequate "rainy-day fund."

Also, often the financial advisor is the first to notice that a client is encountering memory issues or is the victim of elder abuse.

From an estate planning perspective, I often work closely with a client's financial advisor. A financial advisor understands the importance of taking steps to make sure that a client's assets will avoid probate, if that is a goal, or that the client's beneficiary designations are updated and consistent with the client's overall estate plan.

A financial advisor can help the client implement the steps that I have recommended. And after a client dies, a financial advisor often is there to help the client's family.

What advice would you give about transferring assets to future generations?

After listening to a client's concerns and goals, I typically outline the pros and cons of various options to address their concerns.

Many clients choose to create trusts for their children and grandchildren who lack the experience or ability to manage wisely the assets they will inherit. In other instances, if a child or grandchild potentially has creditor issues, trusts can provide asset protection for beneficiaries.

For example, increasingly, parents worry about protecting the child's inheritance in the event the child divorces. In North Carolina, a divorcing spouse cannot reach assets held in trust for a child. For clients who want to ensure that their assets "stay in the family," trusts can be used to provide for a client's child, and then pass on to the client's grandchildren at the child's death.

How do you advise clients regarding income tax-deferred investments versus other investments?

Planning for retirement assets is a significant part of how we assist our clients. For many individuals, their retirement accounts make up the majority of their assets. These assets pass by beneficiary designation and are not controlled by the client's will or trust. It is crucial to make sure that the beneficiary designations on these assets match the distribution goals of the client.

Since distributions from an IRA are subject to income taxes, advising clients on options to minimize the income tax consequences to them and their beneficiaries is an important part of an estate plan.

If clients are concerned about asset protection or a beneficiary's ability to manage money, they may want to leave retirement assets in trust. In that case, we often need to include specialized provisions in their estate planning documents to avoid acceleration of distributions from the IRA and minimize income tax consequences.

For individuals who want to support charitable organizations during life or after their death, funding those gifts to charity from the individual's IRA can minimize income taxes, since charities do not pay income taxes on funds they receive from an IRA.

Another part of our retirement planning is to assist individuals in problem-solving if they have encountered a problem regarding the administration of their retirement account. In many cases, we are able to avoid potential penalties and negative tax consequences.

How can clients ensure their assets are used responsibly by their heirs?

Trusts can be powerful tools for younger, inexperienced beneficiaries to benefit and gain the expertise and experience to manage their inheritance. The terms of the trust can be tailored to encourage financial responsibility and pass on the client's values. Many clients also want to include detailed provisions designed to incent their beneficiaries to work and be self-reliant.

Likewise, when trusts are utilized, clients can provide beneficiaries who are inexperienced in managing money with an opportunity to partner with someone more experienced in financial matters. Initially, someone with more financial experience – such as a trusted family member, friend or trust company – will serve as trustee and manage the inheritance.

Then, when the client feels the beneficiary is able to participate in decision-making, the beneficiary can become a co-trustee, which serves as a type of internship. Later, when the beneficiary has gained the experience and capacity, the co-trustee can choose to step down and allow the beneficiary to assume full control of their inheritance.

What should clients with existing estate plans do to prepare for the 2026 "sunset" of most estate planning provisions under the Tax Cuts and Jobs Act?

In 2019, the estate tax exemption amount is $11.4 million per person; a married couple can leave $22.8 million to their family before estate tax is an issue. This is up from $5.49 million per person in 2017. However, if you do have a taxable estate, the tax rate is significant – 40 percent. Absent action from Congress, the exemption will return to the 2017 levels in 2026.

First, review your current plan. Clients should have an attorney review their existing estate plan to ensure it works in the current tax environment. Many documents, particularly those executed prior to 2010, contain complicated tax reduction planning that could be simplified and streamlined.

Second, consider implementing a plan that has flexibility. We typically include provisions in documents of clients with assets that exceed $7 million to allow flexibility in planning in the event the estate tax exemption is lowered. This planning takes advantage of the current high exemptions but also allows for post-death decisions or elections to be made and implemented to adapt if the current estate tax exemption sunsets as planned.

Third, consider making lifetime gifts – using the current high exemption levels before you lose them. As we get closer to Jan. 1, 2026, if it is clear that Congress is not going to take action to change the sunset, a client with a taxable estate under the former estate tax regime should consider making taxable gifts prior to the sunset.

The IRS recently issued proposed regulations providing that a taxpayer who uses the higher exemption through lifetime gifts will not be adversely affected when the exemption level sunsets (i.e., use it or lose it). Some gifting techniques allow clients to continue to have management responsibilities of the assets they transfer.

You can read the entire article on Advice for Long-Term Wealth Management here.