Some Things to Chew On

Estate Planning Considerations for the Baby Boomer/Sandwich Generation

By TODD RATNER

Sociologists and the media define the Baby Boom generation as those born in the United States between 1946 and 1964. Approximately 76 million people were born during this timeframe and grew up during one of the most prosperous and sustained economic-growth periods in this country's history. This generation has enjoyed a considerably higher standard of living than any previous one.

Of them, an estimated 16 million find themselves sandwiched between two generations, struggling to raise their children while caring for an aging loved one. These Americans are commonly referred to as the 'sandwich generation,' and they are especially stressed over the combination of caring for aging parents, raising their children, and planning for their own retirement.

At roughly 28%, Baby Boomers represent a disproportionately large segment of the U.S. population. They require careful estate-planning considerations due to the wealth they have accumulated. Additional consideration must be given to the wealth they will or have inherited from their parents and the long-term care required by both themselves and their parents.

Charles Sabatino, the assistant director of the American Bar Association's Commission on Legal Problems of the Elderly, has noted that Baby Boomers display three generational characteristics.

1. They tend to be better educated, more insistent on doing things their own way, less trusting of traditional authority, and demanding of more convenience and service;

2. Their estates are more complicated, diverse, and geographically far-flung due to the growth in investment products and increased job mobility; and

3. They will likely experience more career changes, more marriages, more non-traditional family affinities, and a more fluid mixing of educational, retirement, and work cycles.

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Therefore, it is imperative that Baby Boomers review their estate-planning documents frequently and at every life change and stage. This includes birth of grandchildren, marriage, and divorce of children and other circumstances like a child with a substance abuse habit or a pattern of irresponsible spending, etc.

One of the most pressing concerns that face Baby Boomers, and especially the sandwich generation, is the financing of long-term care for themselves and their parents.

Many Baby Boomers have witnessed someone close to them go through a nursing home care stay and its drain on their savings. Baby Boomers are increasingly taking steps to preserve their assets and prevent becoming a burden on their own children. The available options include private payment, Medicare, Medicaid, and long-term care insurance.

• **Private payment** is generally the first line of defense for health care expenses. Most people only become acutely aware of how expensive health care services are when they start paying for them out of their own checkbook. In Massachusetts, the monthly cost of nursing home care is approximately $7,700. This expense alone can quickly evaporate a lifetime of savings and significantly limit the amount passed to designated heirs.

• **Medicare** is the federal government-run health insurance program for those over age 65. It provides coverage for hospital and doctor expenses and covers health care and hospice service when ordered by a doctor. It pays for short-term skilled nursing, such as recovery after a hospital stay or surgery. However, Medicare does not cover all medical expenses or most long-term care.

• **Medicaid** is a federal/state program designed to provide health care to the medically and financially needy. The key eligibility requirement is that you must have very limited financial resources and income. Medicaid benefits are not available until the countable assets of a married couple are less than $103,640, or less than $2,000 for singles.

Medicaid planning or asset-preservation planning can be accomplished by properly transferring assets in accordance with complicated Medicaid laws, which include a specific look-back period on all assets and income.

Upon the enactment of The Deficit Reduction Act of 2005, Medicaid increased the look-back period for asset transfers and financial information prior to the date of application for Medicaid benefits from three years to five years. This is the time period during which a person may not transfer assets and still be eligible for Medicaid.

Under the new law, the penalty period for gifts made within the five-year look-back period will not apply until the date on which the applicant is otherwise ineligible for Medicaid benefits, which is often the time when the applicant enters a nursing home. An applicant who has transferred any asset for less than fair market value, i.e. a gift, will be disqualified from receiving Medicaid benefits for a period of months equal to the sum of the amount of the transfer divided by the average monthly cost of nursing home care, approximately $7,700.

Unlike Medicare, which everyone over age 65 receives, Medicaid requires an application for benefits.

Long-term care insurance is a better means to plan for a nursing home stay. This can provide the financial resources for skilled nursing care or the means to stay at home when illness leaves an individual debilitated. It will also pay a daily benefit toward the cost of long-term care. A person must be insurable in order to be eligible to purchase long-term care insurance. This is dependent upon the absence of certain medical conditions.

Every Baby Boomer, regardless of his or her financial status, should have a customized estate plan. At the very least, their estate plan should include a will, durable power of attorney, and a health care proxy. Revocable trusts should also be explored to keep assets out of probate and to offer significant estate tax relief. In the event that a financial plan includes life insurance, one may also wish to explore an irrevocable life insurance trust, which helps protect life insurance assets from estate tax.

When it comes to the topic of inheritances, many Baby Boomers say that money is not everything. On the contrary, many of them say their parents' personal items are often as or more important to them than the oft-publicized trillions of dollars Boomers are anticipated to inherit.

To address this, a memorandum may be executed in conjunction with your parents' or your own will. This is a list of personal property, and it can provide for the property's distribution among your family members or other individuals. Although this document does not create a legal or equitable obligation, as it is not offered for probate as part of your parents' will, it does express their intent. Since desires regarding the transition of personal keepsakes are often not communicated to heirs, a memorandum can hopefully eliminate disputes between heirs regarding intent as to who should inherit these personal items.

Those within the sandwich generation must also concern themselves with the disposition of their parents' financial matters; however, discussing personal finances is taboo in many families. Perhaps another approach could be to ask your aging parents how they hope to live out the rest of their lives, their dreams and goals, and their worries and concerns prior to discussing more sensitive issues like money, estate planning, and their health and welfare.

If you are unable to get through to your aging parents, you may suggest that they talk to their legal or financial advisor about their future. Planning to preserve your aging parents' hard-earned accumulated assets for the sake of your children and future generations is not improper. Estate planning not only preserves wealth for succeeding generations, it also gives your aging parent satisfaction and peace of mind.

It is also a good idea to work with your parents to prepare a record of essential financial, legal, and medical information. Specifically, you want to include information regarding bank accounts, investment holdings, insurance policy numbers, company names, estate planning documents, and professional financial advisors.

Additional concerns of the sandwich generation include funding college savings, contributing to a son or daughter's wedding or other life expenses, and paying for nursing home care for an elderly parent, all the while saving for retirement. You may wish to research a 529 Plan for your children or grandchildren. This is an education savings plan operated by a state or educational institution and designed to help families set aside funds for future college costs. As long as the plan satisfies a few basic requirements, you will enjoy special tax benefits.

America's population is aging, and the Baby Boomers and the sandwich generation have unique characteristics that will require specialized estate planning even if their estates seem straightforward. By planning ahead, they can protect their assets and assist their aging parents in accomplishing the same. Due to the ever-changing and intricate laws and requirements regarding estate planning, experienced estate attorneys are the best resource for determining how to effectively preserve your family's resources.❖

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