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GUEST COLUMN

Safeguarding Your Estate Plan *By Robert G. Blue*

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The goal of minimizing estate taxes has become less pressing for many Marylanders: For decedents dying after January 1, 2019, it is projected that no estate taxes will be due if the decedent has a taxable estate of less than $5.9 million, or less than $11.8 million forç a married couple. With this in mind, many people are re-examining their plans with a focus on other issues.

For instance, if you are charitably inclined, what dollar amount or percentage of your estate would you like to leave for charitable purposes? If you are a married couple, should any of the amount passing to charity be paid at the death of the spouse who is first to die or only at the second death? Might it be a good idea for the spouse who is first to die to establish a charitable trust in his or her Will under which the surviving spouse would receive an annual payment for that spouse's lifetime (either a fixed amount or an amount pegged to a percentage of the fair market value of the trust assets determined annually), with the remaining trust assets passing to charity at that spouse's later death?

It is helpful to think through options in testamentary planning—such as a charitable trust—since unintended results could occur. For instance, suppose Ron and Jane, a married couple, wish to leave $100,000 to charity at the death of the spouse who is last to die. Ron dies first and, according to his "sweetheart" Will, leaves all of his assets outright to Jane with the expectation that Jane will leave $100,000 to their favorite charity as provided in the Will that Jane signed simultaneously with the signing of Ron's Will. Jane, however, succumbing to pressure from her children, changes her Will down the road and deletes the gift to charity altogether. Or suppose Jane remarries and, as the marriage seasons, agrees to title all of her assets jointly with her new husband, Tom, but then dies before Tom, resulting in all of her assets passing to Tom regardless of what her Will says. Or, perhaps before remarrying Jane failed to enter into a prenuptial agreement with Tom, leaving Tom the right under the laws of Maryland and many other states to receive at least one-third of Jane's estate. Under all of these scenarios, the charity could end up with nothing (or possibly a much reduced amount), contravening the original plan of Ron and Jane.

So, even without an emphasis on reducing death taxes, one shouldn't oversimplify when it comes to estate planning. Whether you are single or married, make sure that your plan can withstand the unexpected. And if you are a married couple, identify the planning goals that are most important to both of you and then execute a plan designed to ensure that the goals will be achieved no matter what happens after the death of the spouse who is first to die. ■

THE CGA OPTION

Another option that Ron and Jane might consider is a charitable gift annuity, or CGA. Agreeing that they want their favorite charity—which could be BCF or another charity of their choosing —to benefit from their estate plans, they establish a CGA that will provide lifetime income as long as either of them lives and ultimately become a charitable gift to BCF. This removes those assets from their estate for estate tax purposes and guarantees the charitable gift after they've both passed away.