

Considerations for Ultra High Net Worth Couples' Estate Planning

By Stephen L. Ferszt

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News of celebrity engagements, most recently Taylor Swift and Travis Kelce, typically captures the attention of mainstream media. This raises public curiosity and anticipation about wedding plans, celebrity fanfare and the specter of future planning. When two famous people, a musician and an athlete with substantial assets, join together, there are many prudent financial and emotional decisions for them to make beyond the wedding ceremony and related celebrations.

In cases where ultra-high net worth (UHNW) individuals, each having assets valued at \$15 million or more, become engaged, they would be well advised to assemble a dedicated team of sophisticated advisors to advise on their estate and financial planning.

It is not only important that the team include experienced estate planning attorneys, financial advisors, accountants, and business valuation experts, but also that those specialists be coordinated in carrying out the couple's planning strategies.

In addition to putting in place effective wills, powers of attorney, healthcare proxies, and asset protection strategies, such experts can advise the couple on advanced planning techniques to maximize their tax savings and strategic transfers to future generations.

The enactment of the One Big Beautiful Bill Act (OBBBA) presents newfound opportunities for such planning. The OBBBA permanently repealed the sunset provisions that the 2017 Tax Cuts and Jobs Act applied to the estate, gift and generation skipping

transfer taxes, increasing the applicable exemptions to \$15 million per individual beginning in 2026 (indexed for inflation). For any transfers over the higher exemption limit, the applicable tax rate remains at a flat 40%.



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These changes provide greater certainty to UHNW individuals in long-term planning, enabling a focus on minimizing income taxes as well as estate taxes. However, many states have their own estate or inheritance taxes with much lower exemption thresholds. UHNW individuals must continue to address the difference in potential tax liability through specific state-level planning with their advisers.

Trusts can be central to sophisticated estate planning strategies, offering privacy and discretion over asset distributions while avoiding state probate proceedings. UHNW individuals can avail themselves of the benefits of various trusts depending on the specific aims they are seeking to accomplish.

To facilitate gift-making where the individuals have not used up the increased exemption amounts, they might consider utilizing Grantor Retained Annuity Trusts (GRAT). GRATs are irrevocable trusts to which the grantor transfers assets and receives fixed annuity payments for a set term. Any remaining assets in the trust, along with appreciation, may pass tax-free to the trust beneficiaries.

In certain circumstances where individuals wish to move assets out of their estates for tax purposes,



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Spousal Lifetime Access Trusts (SLATs) and Irrevocable Life Insurance Trusts (ILITs) might be useful. SLATs utilize the unlimited marital deduction to facilitate asset transfers to third-party beneficiaries. So long as the spouse is required to receive and has distributed income at least annually for the term of their life, and the trust is overseen by a disinterested trustee, third-party beneficiaries, such as children, may succeed to transfers out of trust corpus.

Alternatively, donors may transfer a life insurance policy to an ILIT to provide tax-free liquidity upon death that is not part of the grantor's estate. ILITs are commonly used as a vehicle to fund estate taxes, expenses, or succession planning discussed below. For maximum asset preservation, UHNW couples might consider Dynasty Trusts that are designed to transfer wealth to later generations. Certain jurisdictions have repealed the Rule Against Perpetuities and which allows for trusts to continue indefinitely.

To preserve business interests, such couples should take a closer look at their business succession planning and philanthropic strategies. UHNW individuals having significant business assets often look to establish certain entities to hold and manage family business assets.

In many cases, donors can gift such business interests to heirs as a way to transfer wealth while also retaining control of the business. In some cases, such transfers may qualify for valuation discounts for gift tax purposes. In all cases, involving heirs in discussions about financial literacy, investments, and wealth management is crucial for preventing conflicts and preparing them for future responsibilities.

Finally, charitable giving is an important and desired way to preserve one's legacy while also enjoying significant tax advantages. Establishing a private foundation can serve as a lasting vehicle for a family's philanthropic efforts, allowing for control over distributions. Private foundations are an administratively burdensome option as between donor advised funds (DAFs) and charitable trusts, which rely on third parties to administer and manage compliance over charitable contributions.

DAFs offer an immediate tax deduction for contributions, affording donors great flexibility in making grants to various charities over time, while avoiding the demanding tasks of forming, establishing, operating, and complying with myriad regulatory requirements. Similarly, charitable lead or remainder trusts allow individuals to transfer assets with an eye to benefiting both charities and heirs. Charitable trusts reduce estate taxes by moving assets from the estate, while also affording donors a tax deduction.

Where structured properly, these strategies present powerful tax planning opportunities for estates. UHNW individuals should begin learning about and considering these planning strategies with their team of experts in the early stages. Doing so affords the greatest ramp up to making the important life decisions involved for the long haul at the start of a marriage.

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