9 ways estate planning is different in 2022

By **Victoria Zhuang** December 4, 2022 7:58 PM



Pixabay

The couple had been married 35 years, but when the wife passed away, a portion of her estate was inaccessible to her husband.

The wife had set up an investment account 40 years ago, before their marriage, without naming a beneficiary. Presumably she had forgotten to update it.

"He had only come to see me after she had passed away, and was hoping that there was a fix," said Patrick Schultz, the executive director and central division lead of J.P. Morgan Wealth Management's Wealth Planning and Advice.

"And there just wasn't."

It took nine months for the man to claim those assets through the probate courts. Clients who go this route often pay thousands of dollars in legal fees, depending on the state, Schultz said.

While the couple had made a plan on their own, had they met with an estate planning expert, they might have identified missing assets before it was too late. In this case, signing a form would have been all it took, Schultz said.

"It would have gone to him, just like she would have wanted, without any issues."

Estate planning can seem simple, but it can be fraught with pitfalls — at least for average people or the merely affluent.

As the financial services industry grapples with one of the largest intergenerational wealth transfers in history, estate planning skills play a growing role in wealth management. Cerulli Associates estimates that $84 trillion in wealth will be passed on by 2045. Ensuring that heirs continue to use their parents', or grandparents', advisors is a major goal of the industry.

Generally, the ultrarich are more accustomed to passing on wealth, said Jamie McLaughlin, a consultant in the wealth industry who specializes in ultrahigh net worth clients and family offices. "Families with great wealth, on the whole, are more organized, more purposeful with their wealth, more transparent with their heirs," McLaughlin said. But even in this client segment, not all cases are the same.

Rich individuals frequently fail to communicate proactively with intended heirs about their wealth, experts say, fearing it will be painful or create greed. This often leads to expensive, bitter dramas among family members jockeying for the estate after they pass.



TAX

Nasty family drama with Bank of America board member exposes tax risk of gifts

February 8, 2022 11:10 AM

A UBS survey of the global rich published in October, which interviewed 4,500 individuals who each had at least $1 million of investable assets, found that on average four in 10 lacked an updated will and half had not told their heirs where all their wealth was.

Similarly, a D.A. Davidson survey released the same month found that only just over a third of American adults had an estate plan — and that 20% of those who did had not updated theirs in the last five years. The most common reason given for not having such a plan was not believing that they had enough assets to warrant making one.

Heirs who come into wealth can be unprepared to handle the sudden windfall, and may not spend their inheritance as the givers intended. Around two-fifths of heirs in the UBS survey said they wished they could have communicated more with their parents before inheriting.

In 2022, coming out of a global pandemic and with inflation, volatility and politics in the background, several developments have changed certain nuances of estate planning as well. We spoke with experts specializing in estate planning to learn how things are different now. Below are nine recent practices and trends they shared.

Younger clients



Amy Castoro, the president and CEO of The Williams Group. *Amy Castoro*

Amy Castoro, the president and CEO of The Williams Group — a San Clemente, California-based firm that specializes in offering estate planning services to high net worth families — said in an interview that she has noticed people coming to her at increasingly younger ages.

"When I started 11 years ago, our clients were in their 70's, and now they're in their 50's. They are more aware of the impact of

wealth on their families," Castoro said. With this in mind, advisors should be prepared to speak to the needs and interests of a shifting client base in estate planning.

Castoro added that the tech boom of the past decade, with its startup funding ecosystem, and opportunities created for entrepreneurs to scale up via social media, made it possible for the younger generation to build their own contribution to the family wealth pool earlier.

"Most of my clients today, they came from nothing," Castoro said.

"They amassed this great wealth, and then their kids go to great schools and they grow up in an entrepreneurial environment that's highly innovative. And they're just taking more risks. They see more possibilities."



Jennifer Galvagna, the head of trust solutions at Bank of America Private Bank and Merrill Lynch. *Bank of America*

Jennifer Galvagna, the head of trust solutions at Bank of America Private Bank and Merrill Lynch, said younger members of a wealthy family also have different investment interests compared to the older generation and are more keen on assets such as commodities, farmland or cryptocurrencies.

Galvagna said the ongoing transfer of assets from the Baby Boomers to younger generations is also fueling this change in who comes into the conversation for estate planning.

"This is something that will trickle down over the next 20 years," she said. "It's not all happening at once. But it is happening as the baby boomers are starting to all pass into these retirement demographics."

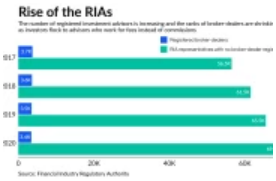
Intergenerational collaboration

Castoro's older clients are also giving their wealth to heirs earlier on, and showing a more collaborative approach across the generations. The pandemic accelerated these trends, she said, by reminding families of the fragility of life.

Combined with the fall in the markets and global geopolitical uncertainty, the environment of crisis brought families together, pushing them to be more creative and innovative to protect their businesses and to open up more about their values and legacy.

"In the past, parents didn't talk about it at all. So when they were 90, their will was read to them in the estate attorney's office. That's all they ever heard about it," Castoro said.

"But now, more baby boomers are saying whoa, I got to be responsible with this. They know that they're going to have a legacy and whether or not they intentionally shape it is up to them. So I would like to think that more of them are getting proactive in helping and supporting the next generation."



WEALTH MANAGEMENT

How private banks are courting the next generation of wealthy investors

October 18, 2021 10:30 AM

The benefit of this approach is that parents "have a longer runway to start preparing the next generation," Castoro said. Starting conversations earlier smooths the transition of wealth without derailing motivation. It also, she added, makes the experience of inheriting wealth less overwhelming for heirs when it happens.

When clients avoid these communications, "all it does is pave the way to the litigator's office," Castoro said.

Think digital



Andrew Crowell, D.A. Davidson's vice chairman of wealth management. *D.A. Davidson*

"With more people shifting to online bill pay and the adoption of cryptocurrencies, planning for the transfer of digital assets is becoming increasingly important," said Andrew Crowell, D.A. Davidson's vice chairman of wealth management, in an email.

CNBC reported in March that 21% of Americans used crypto in some form, according to an NBC poll. Since then, the crypto world has been shaken by a "crypto winter" which saw most cryptocurrencies dramatically shrink in value, layoffs at several crypto businesses and now the **bankruptcies of FTX**, an exchange once valued at around **$32 billion**, and **crypto lender BlockFi**.

But advisors say client **interest in cryptocurrencies has persisted**, which means they're likely to feature in many wealth transfers. With some investors choosing to stick with their digital holdings, it will be important to factor crypto and products like NFTs into inheritances.

"Clients must have written documentation legally granting beneficiaries access to their online accounts. Otherwise, they could face time delays and additional expenses," Crowell said.



TECHNOLOGY

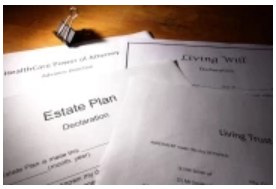
The case for crypto education amid significant disruption and volatility

November 29, 2022 7:32 PM

Focus on beneficiaries

An estate plan can be seen by clients, and advisors, as a one-and-done, but it should be instead construed as a living document. Beneficiaries designated at one point in someone's life, or the portion of an estate they receive, might not make sense a year later.

"Not enough financial advisors are pushing clients to draft their estate plan and update their estate plan at least every few years — and always after significant life changes like birth of a child, divorce or death of a loved one," Crowell said.



FINANCIAL PLANNING

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November 29, 2022 9:00 AM

Crowell said advisors can use personal anecdotes to highlight for clients the risk, coming out of the COVID pandemic, of failing to document medical and end-of-life wishes.

Advisors should also invest in getting to know the client's beneficiaries while the client is still alive. Those who focus only on the client, "are also missing out on an opportunity to help retain the assets of their clients' children by building those relationships early," Crowell said.

Impact investing grows

Clients are more interested in targeted philanthropy in their estate planning, McLaughlin said.

"Just writing checks was traditionally what most people did," he said. Today, "people want to have a bigger impact."

Impact investing, where donors and foundations give to charities but expect the recipient of their funding to deliver a financial return and demonstrate their success in achieving agreed-upon social or environmental outcomes, continues to grow in popularity, McLaughlin said.

"Philanthropy is trending more towards greater design and greater intentionality," McLaughlin said. " They want to have more of a measure as to: I gave you money, what are you doing for it?"



TAX

A powerful new tool transforms how billionaires give fortunes away

November 29, 2022 10:56 AM

"Everybody looks at 990's (tax forms for nonprofits) and sees what the administrative costs are. People want to give to charities that they think are actually well-managed, and then want to have some sense of accountability for the money they gave."

Advisors can meet this desire for informed philanthropy by researching impact investing and offering resources for investors to help them customize giving.

Riding waves of change



Emily Irwin, senior director of advice at Wells Fargo Wealth & Investment Management *Wells Fargo*

Emily Irwin, a former estate attorney who is now the senior director of advice at Wells Fargo Wealth and Investment Management, said her team has focused on helping clients reset their planning goals after the emotional "roller coaster" of 2022's rising interest rates and market volatility.

"For many clients, after living through a bull market of 10 years, their risk tolerance was doing pretty good. And that's being tested in the last 12 months," said Irwin.

Irwin said she was meeting more frequently with some clients and testing out different scenarios with them to ensure that they don't rush into setting aside money into irrevocable trusts before considering if the remainder will be enough to live off of.



Nicolas Tavormina, head of Trust and Estate Planning Strategists at Morgan Stanley Private Wealth Management. *Morgan Stanley*

"How are you going to feel if in fact, what you've retained on your personal balance sheet goes down, maybe by 30%? Will you be able to maintain your lifestyle? Will you feel good at night?" she asks them.

Nicolas Tavormina, the head of Trust and Estate Planning Strategists in Morgan Stanley's Private Wealth Management Division, said clients might have to adjust the amount of life insurance they've put aside to keep up with the rising cost of living in times of high inflation.

Business owners might also consider accelerating the transfer of their stake in the family business as a gift to their children, now that companies are generally at lower valuations.

"You're transferring a bigger stake at the same price," Tavormina said.

Interest rate games

The rising interest rate environment also **presents novel challenges for advisors**. Certain strategies that worked well in the past, when interest rates were low for many years, are suddenly unfavorable, Schultz said.

These include grantor-retained annuity trusts, a type of tax-protected account where rich people can stash appreciating assets they don't need — such as stock — for a set term, such as two years. During this period, the client who sets up the trust gets paid back a portion of the original invested sum on a regular basis, as an annuity.

The annuity payment includes interest based on current rates. If the assets in the GRAT grow faster than current interest rates, whatever is left over in the account after all the payments have been made back to the client can go tax-free as income to their beneficiaries and will not count towards the client's lifetime gift limits.



TAX

Rising interest rates cause pain for estate planning moves used by the ultrarich

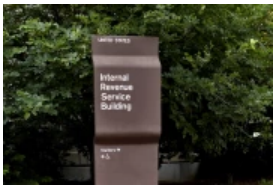
September 27, 2022 11:44 AM

But if the asset can't grow fast enough to outpace rising interest rates, the beneficiaries get nothing. "They get all the assets back, they wasted two years and they wasted a bunch of attorneys' fees," Schultz said of clients in this situation.

Other vehicles such as charitable remainder trusts, which give their wealthy grantors a bigger tax deduction as interest rates rise, are coming into vogue, Schultz said.

Gifting more now

The 2017 Tax Cuts and Jobs Act, which doubled the gift tax exemption, is set to expire or "sunset" at the end of 2025. Lifetime exemptions will fall by roughly half, a blow to those passing down wealth.



TAX

IRS unveils inflation adjustments for next year

October 18, 2022 6:31 PM

As of this year, individuals **can gift up to $12.06 million** in their lifetime to someone else, tax-free. Married couples can gift up to double that amount, $24.12 million. The inflation-adjusted ceilings go to $12.92 million and $25.84 million, respectively, in 2023. But by 2026, these ceilings will go back down to only around their 2017 levels of $5 million per individual, adding adjustments for inflation.

Although the incoming Republican-controlled House of Representatives has signaled an interest in **making Trump-era tax breaks** like the higher lifetime gift tax exemption permanent, it's possible that this perk for rich families will go away as scheduled, given the **perceived untenability of tax cuts for the rich** in an inflationary environment.



TAX

Tax planning in an unpredictable environment

November 1, 2022 11:20 AM

Uncertainty around the exemption's fate has spurred many to gift aggressively while they still can.

Bill Shad, the head of Wealth Planning Strategists and Trust Consulting at UBS, said that in recent years, the White House tried to pass bills that "would have dramatically changed the estate planning landscape," including lowering this lifetime exemption before its sunset. The bills did not pass, Shad said, but advisors were scrambling in the meantime to urge their clients to plan around it.

"We spent the last couple of years looking at clients' legacy assets and really trying to hone in on advice and counsel around: if you can do it, you may want to think about taking some of these gifts and putting it into your local trust," Shad said.



TAX

5 year-end tax moves to make for clients now

December 1, 2022 10:33 PM

Wanted: in-house estate attorneys



David Jones, the director of estate strategy at Bailard. *William Rittenhouse/Bailard*

Dave Jones, a former estate attorney, said advisors sometimes fail to involve the legal expertise of estate lawyers more and earlier in the process, to their clients' detriment.

"One of the biggest challenges is finding an estate planning attorney that the client likes and is responsive," said Jones, the director of estate strategy at the San Francisco Bay area-based RIA Bailard.

It's also important for the advisor to have a good working relationship with the estate attorney. "When I practiced as a lawyer, it was challenging because I would usually be the last one brought into the conversation, for obvious reasons," said Jones. "They don't want to pay us billable hours until they have to."



WEALTH MANAGEMENT

Wells Fargo suit against ex-lawyer 'unusual,' could have 'chilling effect'

October 10, 2022 3:30 PM

Advisors are protective of their clients, and understandably don't want to put them in front of just anyone. However, this guarded, cost-cutting approach often hampers estate attorneys' ability to execute better strategies, Jones said. "The advisers are not attorneys. So they don't know the best times to do certain strategies."



Jamie McLaughlin, CEO at J. H. McLaughlin & Co. *Jamie McLaughlin*

McLaughlin said he had seen more wealth firms embracing "integrated multidisciplinary planning," bringing on more specialists to meet clients' complex needs recently — including, in this case, estate attorneys.

"Hiring lawyers on staff is a big trend," McLaughlin said. "And the term 'wealth strategist' today is sort of the modern lingo for a lawyer that's working within the firm."