



Ask a Trust Officer

Past Imperfect: Does your Trust or Will need to be Updated?

DEAR TRUST OFFICER:

It's been a few years since my wife and I revised our wills. We used trusts that our advisors told us would allow us to take advantage of our federal estate tax exemptions, so that we'd owe little or no tax when we pass on.

We understand that the exemption this year is \$3.5 million. Our assets are less than \$7 million. Are we correct in assuming that there is no immediate need to look at our estate tax strategy again?

—BETTER WITH AGE?

DEAR BETTER WITH AGE:

Your plan may have worked perfectly in its time, but, possibly, now may be flawed. You probably should schedule an early meeting with your estate planning advisors.

Here's a simplified example: Let's say that when you did your planning, the exemption was \$2 million, and your estate was worth, roughly, \$4 million. At your death the exemption amount, \$2 million, would go into a bypass trust, with the remaining \$2 million going to a marital deduction trust. Your wife would receive the right to income from both trusts for her life, and then the assets themselves would pass to your children. Your exemption plus the marital deduction eliminated the tax at your death. Assuming that your wife's exemption was \$2 million when she died, her estate would not owe any tax either.

But, in 2009, with a \$3.5 million exemption and this same plan, your marital deduction trust might receive only \$500,000, depending upon the formula used for its funding, a result that you both might find inappropriate.

Of course, your will may have been written in a way to avoid this problem, but it's a good idea to make certain. And, at the same time, you can review all your bequests in light of today's declining asset values. Plans to treat heirs equally may have been thrown off kilter, and some rethinking may be necessary.

Please contact one of our trust officers at (989) 779-6207 with any questions.

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