

**Estate Planning In Tough Economic Times**  
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Unfortunately many of the needs for estate planning do not disappear when the size of our investment portfolio does. We still need to provide for the orderly distribution of our assets (even if there are fewer of them). We still need to address our medical directives. We still need to address guardianship for any of our minor children. However, when the size of the estate has declined dramatically, estate planning is not as "fun."

Below are some helpful tips for estate planning in tough economic times:

- As stated above, even in tough economic times, you still need to provide for the orderly distribution of assets. Even an outright gift of a relatively small amount to an 18 year old can have adverse consequences.
- Also as stated above, certain matters, such as guardianship, need to be addressed irrespective of the size of the estate. Minors need guardians whether their parents were wealthy or impoverished.
- Be wary of fixed dollar amount gifts. A cash gift of \$10,000 has a dramatically different impact on a \$50,000 estate versus a \$5,000,000 estate. When clients desire to make specific gifts, I recommend that they consider making the gift subject to a percentage limitation. For instance, a gift could be "the lesser of 2% of my estate and \$10,000" or "the greater of \$50,000 and 10% of my estate." Have such a gifting arrangement not only ensures that your desires are met, but it also reduces the need to update the estate plan as the estate value fluctuates.
- Keep your estate plan flexible. If your estate plan consists of a number of gifts of specific assets then you will need to update that plan when the assets change. This updating can be expensive and the failure to update when the named assets change can be even more costly to the intended beneficiaries.
- Carefully review your "funding." Estate plans only work to the extent that the assets are properly titled. A revocable trust only avoids probate to the extent that the assets otherwise subject to probate have been properly transferred to the trust. In addition, beneficiary designations are also only effective at avoiding probate if they are properly completed. In tough economic times, paying for a probate that could have otherwise been avoided can be quite stressful and will also result in a delay in distributing the assets.