

The Family That Gives Together Gives More:
The New Tax Law and Multi-Generational Gift Planning
May 4, 2018 | Northern California Planned Giving Conference



Today

- Changes to Calculations
- What Was Added / Expanded?
- What Was Limited/Eliminated?
- Changes to Deductions
- Changes to Charitable Deductions
- Examples
- How is philanthropic planned giving affected?
- How can we change the conversation with the donors?

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Select Highlights of the
2017 Tax Cut & Jobs Act

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Tax Cuts and Jobs Act

- AKA “Reconciliation Act of 2017” or the “2017 Tax Act”
(Full-employment Act for Tax Lawyers & Accountants)
- Signed into law on December 22, 2017 as a Christmas present
(unless you live in California)
- Effective beginning taxable year after 2017,
with individual provisions sun-setting at the end of 2025
- Not a lot of **real** tax reform
- Simplification for some

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Individual Income Tax

Changes to Calculations

- **Rate Brackets** still 7, but with top rate of 37% starting at \$500K for individuals and \$600K for married filing jointly (marriage penalty of about \$8K)
- **Indexing Measurement** is based on “Chained CPI”; will result in lower increases of threshold amounts and may put more taxpayers in higher brackets faster
- **Standard deductions** increased to \$24,000 for married individuals, personal exemptions are eliminated
- **Kiddie Tax** eliminated and replaced with applying ordinary and capital gains rates applicable to trusts and estates

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Individual Income Tax

What Was Eliminated?

- **Pease Limitation.** Eliminated the reduction of most itemized deductions by 3% of the amount by which the Adjusted Gross Income exceeds a threshold amount but with a maximum reduction of 80% is eliminated for 2018 to 2025.
- **Alimony Adjustment to Income.** Alimony payments will not be deductible and not includible in income by the recipient.
- **Mandate for Health Insurance.** Eliminates individual mandate for having qualifying health insurance beginning after 2018.

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Individual Income Tax

What Was Added / Expanded?

- **Medical Expenses.** Expanded the ability to deduct medical expenses by lowering the threshold from 10% to 7.5% of AGI.
- **Alternative Minimum Tax.** Increased the exemption for individuals is increased from \$78,750 to \$109,400 and the phase-out threshold is increased from \$150,000 to \$1M (indexed).
- **Application of 529 Accounts.** Expanded to include elementary and secondary schools.

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Individual Income Tax

Changes to Itemized Deductions

- **Home Mortgage Interest Deduction** interest for acquisition indebtedness of a residence is limited to the interest on \$750k (down from \$1M) debt incurred after December 15, 2017
- **State & Local Taxes Deduction,** including income, real estate property and personal property taxes (not related to trade or business) is limited to \$10k
- **Miscellaneous Itemized Deductions** suspended deductions of expenses traditionally deductible to the extent it exceeded 2% of Adjusted Gross Income e.g., investment management expenses and tax preparation fees

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Individual Income Tax

Changes to Charitable Deductions

- **Charitable Deduction** increased limitation on cash contributions to public charities and certain other organizations to 60% of the "contribution base" up from 50% for tax years 2018 to 2025
- **Five year carryover** for unused contribution deductions
- **Seating at an athletic event** in an athletic stadium of such institution received by the donor as part of a charitable contribution is 100% no longer deductible
- **Appraisal fees for charitable contributions** are no longer deductible

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Examples: Wage Income

	Pre-Tax Act	Post-Tax Act
INCOME		
Wages	1,300,000	1,300,000
Qualified Dividends	400,000	400,000
Interest & Non-qualified Dividends	190,000	190,000
Self-employment income from Pass Thru	200,000	200,000
Self-employment income (Board of Director fees)	95,000	95,000
Short-term Investment Portfolio Gains/(Losses)	200,000	200,000
Long-term Investment Portfolio Gains/(Losses)	100,000	100,000
TOTAL INCOME	2,485,000	2,485,000
ADJUSTMENTS		
Self-employment Tax Deduction	(12,000)	(12,000)
ADJUSTED GROSS INCOME (AGI)	2,473,000	2,473,000

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Examples: Wage Income

	Pre-Tax Act	Post-Tax Act
DEDUCTIONS		
State & Local Taxes	(361,000)	(10,000)
Interest Expense	-	-
Miscellaneous Expenses (2% Limitations)	(162,000)	-
3% of Adjusted Gross Income Floor (Pease Limitation)	65,000	-
TOTAL ITEMIZED DEDUCTION	(458,000)	(10,000)
STANDARD DEDUCTION	(12,700)	(24,000)
TOTAL DEDUCTIONS AGAINST AGI	(458,000)	(24,000)
TAXABLE INCOME	2,015,000	2,449,000

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Examples: Wage Income

	Pre-Tax Act	Post-Tax Act
TAXES		
\$500,000 Taxed @ 20% Rate	100,000	100,000
Balance Taxed @ Ordinary Income Brackets	545,000	660,000
Self-employment Tax	24,000	24,000
High Income Medicare Tax	12,000	12,000
Net Investment Income Tax (3.8%)	30,000	34,000
Variance: \$119,000 → TOTAL FEDERAL TAXES	711,000	830,000
Marginal Nominal Federal Rates	39.6%	37.0%
Effective Federal Rates (with Phase-outs)	41.0%	37.0%

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Example: Wage Income & Charity

	Pre-Tax Act	Post-Tax Act
INCOME		
Wages	1,300,000	1,300,000
Qualified Dividends	400,000	400,000
Interest & Non-qualified Dividends	190,000	190,000
Self-employment Income from Pass Thru	200,000	200,000
Self-employment Income (Board of Director fees)	95,000	95,000
Short-term Investment Portfolio Gains / (Losses)	200,000	200,000
Long-term Investment Portfolio Gains / (Losses)	100,000	100,000
TOTAL INCOME	2,485,000	2,485,000
ADJUSTMENTS		
Self-employment Tax Deduction	(12,000)	(12,000)
ADJUSTED GROSS INCOME (AGI)	2,473,000	2,473,000

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Example: Wage Income & Charity

	Pre-Tax Act	Post-Tax Act
DEDUCTIONS		
Charitable Cash Contributions	(1,237,000)	(1,300,000)
State & Local Taxes	(196,000)	(10,000)
Interest Expense	-	-
Miscellaneous Expenses (2% Limitations)	(162,000)	-
3% of Adjusted Gross Income Floor (Pease Limitation)	65,000	-
TOTAL ITEMIZED DEDUCTION	(1,530,000)	(1,310,000)
STANDARD DEDUCTION	(12,700)	(24,000)
TOTAL DEDUCTIONS AGAINST AGI	(1,530,000)	(1,310,000)
TAXABLE INCOME	943,000	1,163,000

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Example: Wage Income & Charity

	Pre-Tax Act	Post-Tax Act
TAXES		
\$500,000 Taxed @ 20% Rate	100,000	100,000
Balance Taxed @ Ordinary Income Brackets	120,000	184,000
Self-employment Tax	24,000	24,000
High Income Medicare Tax	12,000	12,000
Net Investment Income Tax (3.8%)	32,000	34,000
Variance: \$66,000 → TOTAL FEDERAL TAXES	288,000	354,000
Marginal Federal Rates (with Phaseouts)	35.0%	37.0%
Effective Federal Rates	36.0%	37.0%

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Example: Carried Interest

	Pre-Tax Act	Post-Tax Act
INCOME		
Wages	-	-
Qualified Dividends	400,000	400,000
Interest & Non-qualified Dividends	190,000	190,000
Self-employment Income from Pass-thru	200,000	200,000
Self-employment Income (Board of Director fees)	95,000	95,000
Short-term Investment Portfolio Gains / (Losses)	200,000	200,000
Long-term Investment Portfolio Gains / (Losses)	1,400,000	1,400,000
TOTAL INCOME	2,485,000	2,485,000
ADJUSTMENTS		
Self-employment Tax Deduction	(17,000)	(17,000)
ADJUSTED GROSS INCOME (AGI)	2,468,000	2,468,000

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Example: Carried Interest

	Pre-Tax Act	Post-Tax Act
DEDUCTIONS		
Charitable Contributions	(1,234,000)	(1,300,000)
State & Local Taxes	(185,000)	(10,000)
Interest Expense	(84,000)	(84,000)
Miscellaneous Expenses (2% Limitations)	(162,000)	-
3% of Adjusted Gross Income Floor (Pease Limitation)	65,000	-
TOTAL ITEMIZED DEDUCTION	(1,600,000)	(1,394,000)
STANDARD DEDUCTION	(12,700)	(24,000)
TOTAL DEDUCTIONS AGAINST AGI	(1,600,000)	(1,394,000)
TAXABLE INCOME	868,000	1,074,000

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Example: Carried Interest

	Pre-Tax Act	Post-Tax Act
TAXES		
Taxed @ Capital Gains Rate	138,000	179,000
Alternative Minimum Tax	34,000	-
Self-employment Tax	35,000	35,000
High Income Medicare Tax	-	-
Net Investment Income Tax (3.8%)	77,000	81,000
Variance: \$11,000 → TOTAL FEDERAL TAXES	284,000	295,000
Marginal Federal Rates (with Phaseouts)	26.0%	20.0%
Effective Federal Rates	26.0%	17.0%

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Estate, Gift & GST Tax

- Doubles the exclusion amount for transfers (at death or during life) beginning in 2018 (through 2025)
- Amount doubled is \$5,000,000 (indexed for inflation based on “Chained-CPI”), which is approximately \$11,200,000 for 2018
- Provision sunsets beginning 2026
- **Planning idea:** Die or make lifetime gifting before the end of 2025!

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Why You Should Gift before 2025

(Assumes death after 2025)	No Gift	Yes Gift
Estate	25,000,000	25,000,000
Gift	-	12,000,000
Gift Tax Payable	-	4,745,800
Unified Credit	-	(3,945,800)
Gift Tax Paid during life before 2025	-	800,000
Taxable Estate @ Death after 2025	25,000,000	13,000,000
Adjusted Taxable Gift	-	12,000,000
Total	25,000,000	25,000,000
Tax on Total	9,945,800	9,945,800
Credit for Gift Tax Paid	-	(2,800,000)
Unified Credit	(1,945,800)	(1,945,800)
TAX @ DEATH	8,000,000	5,200,000
Savings on Taxes Paid (40% of the additional \$5M exemption)		2,000,000

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Bipartisan Budget Act of 2018 (BBA)

- AKA “2018 Budget Act” ending a brief government shutdown
- 2-year budget bill
- Extended several expiring individual tax provisions
- Added Private Foundation related tax provisions:
 - 1.4% excise tax on private investments for colleges and universities
 - Excessive business holdings tax exemption that meets certain criteria

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How could tax reform affect philanthropic planned giving?

Let’s discuss...

Possible Effects of
Tax Reform

Will the increased standard deduction (\$24k) be a detriment?

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Possible Effects of
Tax Reform

Will the increased standard deduction (\$24k) be a detriment?

Will the desire to give back outweigh tax motivations for charitable giving?

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Possible Effects of
Tax Reform

Will the increased standard deduction (\$24k) be a detriment?

Will donors still consider testamentary charitable giving at death if there's no estate tax?

Will the desire to give back outweigh tax motivations for charitable giving?

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Possible Effects of
Tax Reform

Will the increased standard deduction (\$24k) be a detriment?

Will donors still consider testamentary charitable giving at death if there's no estate tax?

Will the desire to give back outweigh tax motivations for charitable giving?

Will the new law's complexity and required substantiation curtail non-cash gifts?

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Possible Effects of
Tax Reform

Will the increased standard deduction (\$24k) be a detriment?

Will donors still consider testamentary charitable giving at death if there's no estate tax?

Will lower income tax rate affect donors' giving?

Will the desire to give back outweigh tax motivations for charitable giving?

Will the new law's complexity and required substantiation curtail non-cash gifts?

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Possible Effects of the
Economy & Political Climate

Will the decrease in the government funding for certain programs increase charitable giving for those causes?

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Possible Effects of the
Economy & Political Climate

Will the decrease in the government funding for certain programs increase charitable giving for those causes?

Will the potential increase in interest rates affect the motivation for use of certain split interest charitable planning techniques?

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Possible Effects of the

Economy & Political Climate

Will the decrease in the government funding for certain programs increase charitable giving for those causes?

Will the potential increase in interest rates affect the motivation for use of certain split interest charitable planning techniques?

Will market volatility affect gifts of appreciated assets?

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Possible Effects of the

Economy & Political Climate

Will the decrease in the government funding for certain programs increase charitable giving for those causes?

Will the potential increase in interest rates affect the motivation for use of certain split interest charitable planning techniques?

Will the increased use of Donor Advised Funds be a detriment to charitable organizations?

Will market volatility affect gifts of appreciated assets?

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Survey Says ...

- In 2015, asked if you will **receive no income tax deductions** for charitable giving, would your charitable giving increase, decrease or stay the same?

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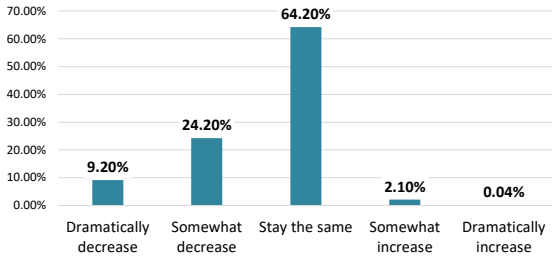
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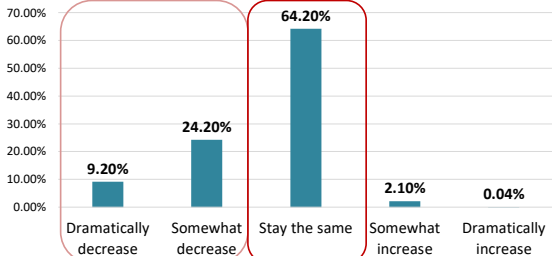


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Survey Says ...

- In 2015, asked if you will **receive no income tax deductions** for charitable giving, would your charitable giving increase, decrease or stay the same?



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Survey Says ...

- In 2015, asked if the **estate tax were permanently eliminated**, would the amount you left to charity in your estate plan increase, decrease or stay the same?

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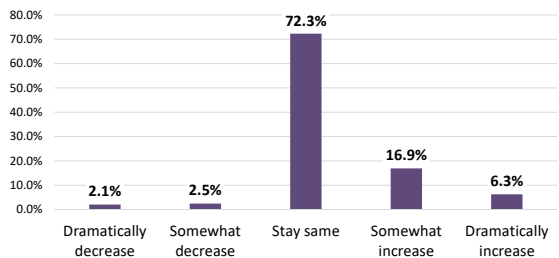
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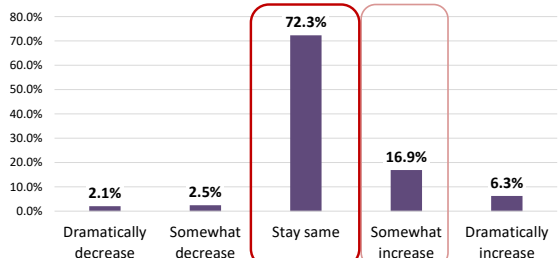


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Survey Says ...

- In 2015, asked if the **estate tax were permanently eliminated**, would the amount you left to charity in your estate plan increase, decrease or stay the same?



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Now, please share with the group,
how else is your organization being
impacted so far

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Changing the Conversation:
How to get ahead of possible
negative effects to charitable giving

A Contemporary View

The Four Pillars of Wealth Transfer

1. **Estate Planning** – the process of transferring wealth from one generation to another, beyond tax and legal
2. **Tax Planning** – minimizing the cost of the wealth accumulation and wealth transfer by planning for the income, gift and estate taxes
3. **Asset Management** – includes financial capital, social reputation, health and other intangible familial legacies.
4. **Philanthropic Planning** – an aspirational sharing of wealth, time and talent with the community at large beyond the family



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3 Major Causes of Wealth Transition Failure

1. 60% of the transition failures are caused by breakdown of communications and trust within the family unit – lack of reliability, sincerity and competence



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3 Major Causes of Wealth Transition Failure

- 2. 25% of the failures were caused by inadequately prepared heirs
 - Grantors not communicating with heir
 - Grantors not providing heirs with the education on how to handle financial responsibility and be stewards for the future



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3 Major Causes of Wealth Transition Failure



- 3. 15% of failures are a combination of unplanned taxes, legal issues, lack of clarity of family mission
 - 3% of the 15% due to lack of professional financial guidance

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Now, why is this important?

- In the next 50 years, there an estimated **\$60 trillion** will be passed to the next generation
- Global and historical phenomenon known as “shirtsleeves to shirtsleeves” or “clogs to clogs” – family wealth does not survive three generations
 - Generation One creates the wealth
 - Generation Two enjoys the wealth
 - Generation Three losses the wealth

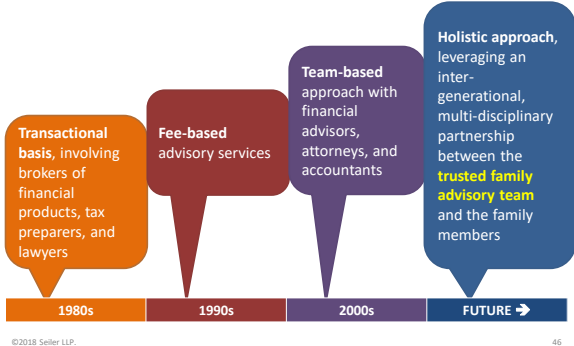
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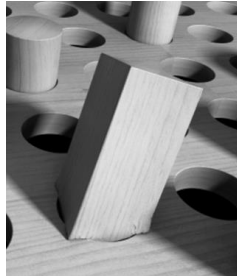
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Paradigm Shift in Wealth Management



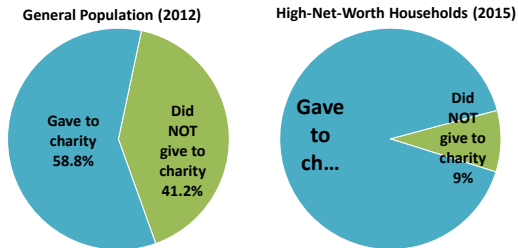
How does this impact planned giving?

- Statistically, only a few give to charity solely for tax **advantages**
- In large part, charitable intentions and motivations pervade
- At the same time, donors are unlikely to make charitable gifts **if they do not fit** into the overall financial plan



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Survey says ...

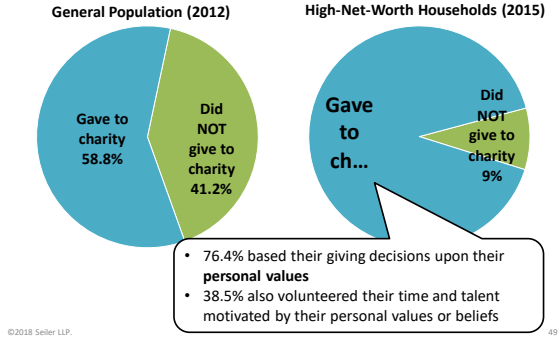


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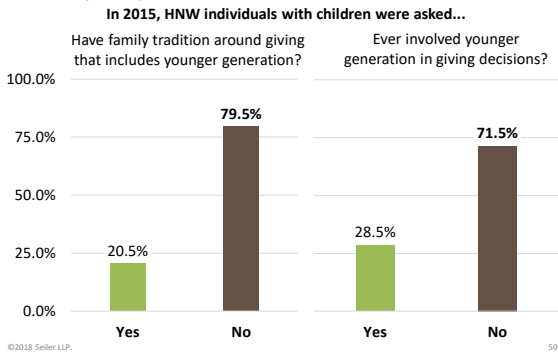
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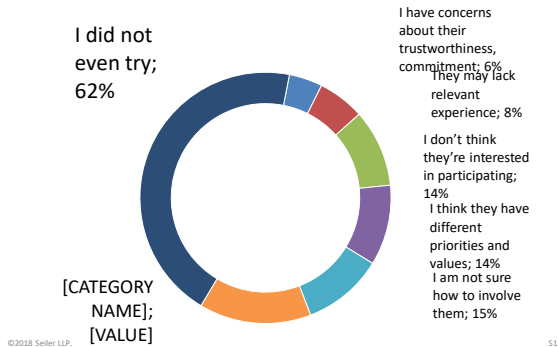
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Survey Says ...



Reasons for NOT Involving Younger Gen



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Successful Wealth Transition Planning

Requires a solid and unifying foundation built on:

1. Trust and communication
2. Clearly-defined roles for heirs
3. Family value-based mission



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Role of Philanthropy

- **Serves as a hidden pathway to family unity** – not only has a proactive impact on society but also teaches the younger generations the skills and competencies necessary to lead fulfilling lives and steward their own wealth responsibly



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The Changing Conversation

- Our role is to help the older generation take on the mantle of being a steward of the family asset for the next generation through:
 - Awareness of the challenges, the roles and how to prepare themselves and their heirs
 - Assessment of opportunities for meaningful conversations about family wealth, legacy and values (which presumably will include philanthropy)
 - Action to strengthen trust and communication to prepare and follow-through the family mission statement
- Our role is not just to help prepare the wealth for the heirs but also to help prepare the heirs for the wealth!

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The Family That Gives Together Gives More:
The New Tax Law and Multi-Generational Gift Planning
May 4, 2018 | Northern California Planned Giving Conference

The Bottom Line

Synergizing Family Legacy with Altruism

- Therefore, the topic of family philanthropy – used early and often – both formal and informal – is now of utmost importance in order to engage the next generation.
- The family that gives together, gives more ...and in the end keeps more!



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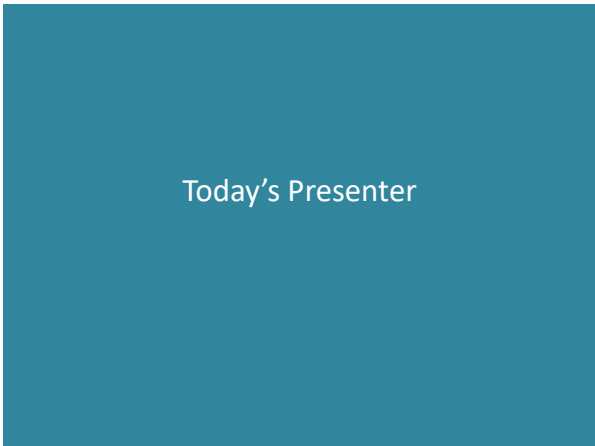
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Elizabeth Sevilla, CLU, ChFC
Tax Partner

Elizabeth has over 25 years of experience. She has spent the vast majority of her career with individual taxation and is a leader in the firm's Trusts & Estates Practice. Over the past 2 decades, Elizabeth has worked closely with high net worth individuals, closely-held business owners, corporate executives and partners of investment banking firms and venture capital firms.

Elizabeth holds expertise in the following disciplines:

- Individual and fiduciary income tax compliance and planning
- Estate, trust, gift and charitable planning
- Estate tax return preparation and post mortem funding
- Business succession
- Executive benefit planning
- Life insurance due diligence

Professional Experience

- Senior Tax Director, BDO Seidman LLP
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- Bachelor's degree in Psychology, Bachelor's degree in Economics, University of the Philippines
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- San Francisco Estate Planning Council
- Northern California Planned Giving Council

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