

PROCRASTINATION PERILS

Jack Davidson



It happened again this year. The December panic. Why did I wait so long to shop for presents? Why did I wait until the last week of December to do the charitable gifts? Why did I almost allow my Consumer Reports subscription to expire?

I plan on doing better next year. For one, I have decided to study why people procrastinate. A simple New Year's Resolution won't suffice. For one, I have just learned that 70 percent of all New Year's resolutions are abandoned by February.

I take comfort in that I am not alone. A local store owner informed me that the last minute holiday shoppers are predominantly men.

Is procrastination more of a problem for one gender than another? I don't think so, but it's hard to know what our hardwiring is like. I know that many times when presented with a need to do something, my first instinct is to think "Can I put this off?" and my wife's is "How can I fit this in?" When I go to bed with an agenda in my head, the most amazing thing happens: it's gone when I wake. Not so Judy. Her agenda organizes itself overnight.

I don't think procrastination afflicts one gender more than the other. There might be differences in what tasks might attract procrastination. I know it is much easier for me to buy a digital camera than it is for my wife, and it is easier for her to deal with health insurance options than it is for me.

So, I have embarked on my study of procrastination. I told that to my neighbor, and he said "Didn't you say that last year?" Peter's quick. Well, after one day of Googling "procrastination", I have changed my plan. Instead, I will figure out how to overcome

procrastination for important things. I don't want to know the cause. It's disturbing. Do I fear failure? Do I fear success? Am I a "laid-back" procrastinator? Am I an anxiety-obsessed procrastinator? Do I hate authority? I will look into the causes later.

For now, I am studying techniques to avoid procrastinating with a certain degree of urgency. Why? It's really not about me. I am a functioning procrastinator. It's Congress! Those of us who do estate planning were hoping that Congress would remove the uncertainty regarding the federal estate tax. They did not! More on the changes they did make later. Nonetheless, there is no reason to procrastinate in having your estate plan reviewed.

When we do an estate plan, there are probably two universal barriers to completion and one variable. First, there is the lack of urgency unless the client is seriously ill, and the second is the natural tendency to avoid dealing with our mortality. The variable is "Who is driving the estate plan?"

Most of us are afflicted with procrastination with varying degrees of dysfunction. Some of us are blessed with partners who can help us overcome procrastinating when it is important not to procrastinate. Fortunately, I am one of those.

My first estate plan was executed on a neighbor's porch. My wife informed me that we were not getting on the plane, with our two young sons in the care of her parents, without one in place. We were about to leave. Fortunately, I was able to round up enough witnesses. The barriers had been removed, and my wife was driving the estate plan.

There are many clients who feel that they need a perfect plan. There are few perfect plans, although that is our goal. Many planners feel that it's better to achieve 90 percent the way you want it than to have no plan at all. Although there is some strength to the argument that if you execute the plan now, the urgency for the remaining 10% will now diminish to the point where the plan does not achieve the perfection it deserves.

In my opinion there are four important parts to an estate plan:



- THE PLAN
- THE DOCUMENTS
- TITLING
- THE DRIVER OF THE PLAN

THE PLAN is usually not an easy project. It involves thinking through contingencies as well as, perhaps, dovetailing it with the complexities of tax rules.

THE DOCUMENTS: Will, Trusts, Durable Powers of Attorney, and Medical Directives such as Living Wills.

TITLING is the process of making sure that your property ends up where it is supposed to end up - for example, in a living trust - if that is intended. This may involve removing property from joint name and changing beneficiary designations of Life Insurance policies and IRAs. I have seen perfectly good plans ruined by the lack of attention to titling.

THE DRIVER OF THE PLAN is essential. This person needs to make sure that the documents are completed and property is titled properly. In most cases, do not expect your attorney to play this role. Some will drive the documents. Some even drive the titling. Many don't. I have observed a fair number of attorneys from small firms practicing triage. They first respond to the urgent needs of their clients and then to the less urgent ones. Most estate plans are in the category of less urgent. I have seen far too many instances

of a client who has taken months - even years - to complete a plan, and then the attorney takes months to complete the documents. It is ideal if you, or your spouse or another family member, drives the estate plan. There are other drivers as well, but they may drive faster than the speed limit appropriate for you. I have seen many Life Insurance Trusts driven at breakneck speed by the agent.

Sometimes we encounter teams of professionals involved in an estate plan. The client, the attorney, the accountant, the life insurance agent, and the trust officer. Teams can procrastinate as well. If you have a team, you need a project manager. Otherwise, you run the risk of a very high annual maintenance bill without closing open items. The project manager simply holds everyone to the fire until closure. Every estate planning team needs one and, ideally, it should be a member of the team or a family member. You just need to select the right personality and spell out the responsibility. It is rare that the client makes the best project manager when it comes to a team of planners.

Congress recently passed a tax bill that provides some attractive benefits. Among them is "portability", whereby a spouse can use the other spouse's exemption to the extent it was not used on the first spouse's death. We have many trusts designed to capture the first exemption. Will they no longer be necessary? What happens if the changes "sunset" in 2013 as planned? The chart below illustrates some of the key changes:

	2009		2010	
Tax	Exemption	Rate	Exemption	Rate
Gifts	\$1M	45%	\$1M	0.35
Estates	\$3.5M	45%	\$5M	0.35
GST	\$3.5M	45%	\$5M*	0
	2011-2012		2013	
Tax	Exemption	Rate	Exemption	Rate
Gifts	\$5M	35%	\$1M	55%
Estates	\$5M	35%	\$1M	55%
GST	\$5M	35%	\$1M**	55%

It is also interesting to note that Vermont has no gift tax

nor does it have a gift-tax exemption. Vermont does have a GST (Generation Skipping Tax) tax with a much smaller exemption and an Estate Tax with the exemption rising to \$2,750,000 in 2011.

Dovetailing the new Federal rules with the Vermont rules requires thoughtful planning. Do we have enough certainty now to create the perfect plan? Not in all cases! We have enough certainty to reward good planning.

What do you do? You see your attorney. You see your trust officer. More than ever, good advice is very specific to the size of the family assets and family needs. In addition, the legal profession has had some time to adjust to this uncertain world. Disclaimer Trusts and Fractional QTIPs Trusts adjust well to the ups and downs of the tax code, and they are now more familiar to the lawyers. Familiarity leads to less procrastination.

So, we at the Trust Company of Vermont want to create a

sense of urgency. Short of this newsletter, we are at a loss at how to do this. That said, I see a light at the end of the tunnel. I think we can learn from Consumer Reports. I feel indebted to them. They know how to create a sense of urgency so necessary for recovering procrastinators. Allowing my subscription to lapse would have been traumatic for me. How would I be able to pick the best digital camera or talk knowledgeably with my son about the best Flat-Panel TV? So I was able to save my subscription in time. Then someone pointed out that I had already renewed through the year 2013. Just further evidence that Consumer Reports knows the business of urgency.

** Executors of 2010 decedents can elect the "no estate tax/modified carryover basis" ** Indexed for inflation.*

Editor's Note: This is the first time Jack has submitted his article on time.

