

What Steve Jobs might have done to protect his vast fortune.

There is no doubt that Steve Jobs was a visionary. From the mouse to the iPad, Steve Jobs forever changed the way we communicate. Soon after the tragic news broke of the passing of the Apple co-founder, people began wondering what would become of his \$6.7 billion fortune and how much, if any, would be paid to Uncle Sam in the form of estate taxes.

Even while living, Steve Job's estate was much speculated upon. Now that the innovator extraordinaire has passed away, the speculation over who gets what and how much will only be amplified. Unfortunately, the answers will probably never be known. As he was an intensely private person, it is likely that Steve Jobs' estate plan will also remain private.

We know that Steve Jobs amassed billions while running Apple and buying Pixar before it became the Pixar of today. Ultimately, we are unlikely to ever discover the full extent of the estate planning Jobs did to minimize his taxes. When living trusts are used the right way, and assets are funded into them before death, families are protected by privacy. That is because Wills must pass through probate court to work, which means they are public record. Trusts, on the other hand, when properly funded before death, generally remain out of the public eye.

Reuters has reported that Jobs did use living trusts. Real estate records in California show that in March, 2009, which was about two months after Jobs took his second leave of absence from Apple, Jobs and his wife transferred three real estate properties into two different trusts. This means he funded those trusts with that real estate.

Does this mean Jobs funded all of his assets, such as his Disney stock, into his trusts too? We don't know. But with someone as intelligent, and private, as Jobs was, the smart money is on him having done so. The only way we'll find out for sure, though, is if someone files his will in Surrogate's Court. If that happens, it would be reported what assets have to pass through probate, which would only include assets that were not funded into the trusts during his life. Jointly held assets, such as joint bank accounts with his wife, and assets with beneficiary designations, like insurance and retirement accounts, also would probably not have to pass through probate.

Since Steve Jobs lived and died in California, his estate will likely be distributed under that state's law. New York has similar laws covering trusts and the probate process, and there may be steps you can take to ensure that your own estate is distributed in a private manner. Although we may never know what specific planning tools Jobs used, he is likely to have utilized many of the following tools to pass his estate tax free and in private. Some are very simple and are commonly used by people of much more modest means. Others are hugely sophisticated and involve intensive planning and advice from lawyers and financial advisors. Here are the tax saving techniques Jobs is likely to have found most appealing.

Transfers to his Wife

Assets inherited from a spouse are not taxed as long as the inheritor is a U.S. citizen. This is called the unlimited marital deduction. Jobs could have avoided estate tax by leaving everything to his wife Laurene outright or having them go into a special trust, called a marital trust.

The marital deduction doesn't avoid estate tax - it just postpones it. If assets inherited from Jobs remain in her estate when Laurene dies, those assets will count as part of her estate and could be taxed then. Given the amount involved, that's a strong possibility.

Gifts to Charity

For someone like Jobs, both lifetime gifts and charitable bequests would produce estate planning benefits. There's an income tax deduction associated with gifts during life such as a reduction of adjusted gross

income by as much as 50 percent for gifts to public charities and by up to 30 percent for donations of appreciated assets, such as stock held longer than 12 months.

Use of the Unified Credit

Apart from assets left to a spouse, which are tax-free, for the next 14 months we can each transfer up to \$5 million tax-free during life or at death to anyone else. That figure is called the unified credit exclusion amount. For the first time ever, starting in 2011, widows and widowers can add any unused exclusion of the spouse who died first to their own. This dramatic change enables them together to transfer up to \$10 million free of the estate tax, which is currently 35 percent. This is called portability.

Although portability is helpful to many people, it would have been unwise for Jobs, or anyone else, to rely on it. For one thing, it's not nearly enough to cover what will probably be left when Laurene dies. In addition, both the current exclusion amount and portability are scheduled to expire at the end of 2012 unless Congress extends them.

A Bypass Trust

This legal entity is designed to preserve the estate tax exemption of the first spouse to die, without leaving the survivor short of funds. At the death of the first spouse, an amount up to his exemption goes into a trust for the kids. The surviving spouse has access to the earnings (and in some cases principal) of the trust, but the money isn't hers outright and bypasses her estate when she dies. This trust shelters future appreciation from estate tax and has additional advantages such as protecting assets from creditors, from those who prey on the elderly, and from a new spouse if a widow remarries.

GRAT

A GRAT (Grantor Retained Annuity Trust) involves putting appreciating assets into a short-term irrevocable trust and retaining the right to receive an annual income stream for the term of the trust.

This annuity is based on the Section 7520 rate, which is set each month by the Internal Revenue Service (for October it's 1.4 percent, which is a historic low). If you survive the trust term (a condition for this tool to work), any appreciation above this set rate can go to family members or to trusts for their benefit when the term ends. If you die during the term, a portion of the trust will be included in your estate.

Under current law, it is possible to set up a GRAT that will result in no taxable gift, or a nominal one. There was talk that Congress might change that, but the new tax law leaves GRATs alone. Given his reduced life expectancy, Jobs might have set up a series of GRATs with different terms as a hedge against the mortality risk.

Even more important than Jobs' planning is what his wife does going forward. As his survivor, she will have the last word about which assets ultimately go to family, charity or the tax man. Since the couple amassed more wealth than is currently covered by the exclusion amount, she should take steps to minimize the estate tax down the road.

Proper estate planning is extra important when there are complicated family dynamics, such as second-marriages or siblings who do not get along. In Job's family, his first child was born out-of-wedlock to another woman before his marriage, so doing the right legal planning was even more important for him. A child does not have an automatic right to share in the inheritance, so how much Jobs chose to leave her, and his other children, was up to him. When people don't make their intent clear in their estate planning documents, families often fight over their wishes, especially when there are children of different parents involved.

Feel free to contact [Dolores](#) or [Steven](#) to discuss your estate plan.