



ESTATE PLANNING GUIDE

We all often put off those “hard decisions” about what will happen at the end of our lives or in the event of a significant illness. Isn’t it better to think through, evaluate and decide those matters and express those decisions clearly now than to have those decisions made for us by someone else later? We all have the right to make choices based on our own desires, values and belief systems. These are sobering topics to think about especially when we are young and seemingly vibrant, but unfortunately, accidents and illness can claim the lives of young people too. An estate plan not only offers each of us peace of mind, it is a thoughtful gift for your survivors providing for their well being after you are gone.

One of the best and easiest places to start in estate planning is wills and powers of attorney. These are simple documents to have prepared; yet often they get pushed to the back of the list once other tasks are begun. Let’s review briefly these basic legal tools available to you.

ESTATE PLANNING DOCUMENTS

WILL

This document will direct how your assets are distributed at death. A clearly stated directive can prevent stressful and costly disputes among relatives. You need to think about;

- 1) **Beneficiary** – Most couples designate their spouse as their beneficiary. However, we encourage clients to also designate a contingent beneficiary (ies). You may also decide to leave your assets in a trust for the benefit of your spouse or other loved ones. Trusts may be used for a variety of reasons to include but not be limited to: protecting children from a prior marriage, insuring the beneficiary has a trustee who is more likely to follow your wishes, or taking full advantage of the estate and gift tax exemption. Be sure and contact us for additional information if you think a trust might be indicated in your case.
- 2) **Executor/Trustee** – You need to name an executor to settle your estate and a trustee if a trust is created by your will. We suggest that you also name a contingent executor and trustee in the event that you survive your primary designations. Your executor should be someone you trust to settle your estate as indicated in your will. Institutions are often named as trustees. **NOTE: If you choose to use an institutional trustee, we**

- suggest that you give your beneficiary the right to change to another institutional trustee.** This creates an atmosphere conducive to better customer service and competitive price quotes for services rendered.
- 3) **Guardian** – If you have minor children, you will name the guardian of your choice in your will. Again, we suggest you also name a contingent guardian.

DURABLE POWER OF ATTORNEY

This document gives the person designated, the power to handle your financial affairs in case you are incapacitated and unable to do so. Again, you will probably name a spouse if married. But we suggest you also name a contingent designee. It is imperative that this is someone you trust and it should be someone who is capable and prudent with money. By designating someone in advance, you can retain more control over your affairs and prevent the need for your family to go to court to appoint a guardian if you should lose the ability to make your own decisions. You can determine in advance what conditions must occur to make this power of attorney valid. Very often it is the determination by a physician that you are no longer capable of handling your personal affairs. Once you recover, the power of attorney expires and you regain control of your assets. This power of attorney also expires upon your death. **NOTE:** We suggest that you specifically grant your power of attorney the right to make gifts of cash and assets before your death. This is an effective way to move assets out of the estate before it goes to probate. Be sure to tell your attorney if you also wish your designee to be able to make a gift to himself/ herself.

ADVANCE HEALTHCARE DIRECTIVE AND LIVING WILL

These are the most emotionally sensitive documents. They designate a person (and a contingent person) to make your healthcare decisions in the event you are unable to do so. The Living Will specifically outlines your desire for care in the event your recovery is not expected. There are no right or wrong answers. It is only important that your wishes be carried out whatever they are. When designating the person you wish to have this power, we suggest you remember that is often difficult for a spouse to have the final say in such matters. Choose someone who can do as YOU wish. And be sure to talk with them about your wishes at your earliest convenience.

Thinking about death or incapacity is not fun, but it is an essential part of the overall planning process. Once you have these documents in place, it will be a great relief.

OTHER ESTATE PLANNING ISSUES

PLAN YOUR SEND OFF

See? Doesn't that sound a lot better than your "final wishes?" This will be a great opportunity to remind your friends and family of YOU. And you can have it

any way you want it. Some of you may prefer a traditional funeral and burial. Others may choose a party rather than a funeral and a non-traditional disposition of your remains. There are so many options to consider. For example, scattering your ashes at your favorite places, burial in a green space with no marker except a tree, or even incorporation of your ashes into a structure to be used as a fish reef. Again, the important thing is that your “send off” be the one that YOU want. Specifics are not usually a part of your will. Rather, we suggest you prepare a letter of instruction to your executor.

LIVING TRUSTS

Some people establish living trusts during their lifetime and place their assets in the trust with themselves as trustee. Assets in the trust will not have to go through public probate when you die. Thus you retain some privacy as well as possibly save money on probate. In the case of out-of-state real estate this is often very effective, especially since out-of-state probate can be very expensive. Living trusts also have provisions for incapacity, which also serve to designate an alternative trustee. People with living trusts often have a “pour over” will, which requires all assets be placed in the trust at death to be distributed according to the trust document. Not everyone needs a living trust. Be sure and contact us if you would like to discuss your particular situation.

BENEFICIARY DESIGNATIONS

There are many items that will pass to your beneficiary without going through probate. These include but are not limited to:

- Life Insurance Proceeds
- IRAs
- Retirement Accounts
- Annuities
- Pensions

We suggest that you take the time to check your beneficiary designations on all of your accounts. They may be outdated because of a change in your life situation. Additionally, when custodians of these accounts are changed (especially in retirement accounts), beneficiary information may be lost. **NOTE:** Many parents leave a retirement account to “the most responsible child” with the desire that the child distribute the proceeds to other siblings. As there are often tax ramifications to distributions from these accounts, we do NOT recommend this strategy. We would be glad to help you determine the best way to handle your individual situation.

Charitable Strategy – Distributions from many of these accounts are taxable income. If you do have charitable gifts to make upon your death, it is often very advantageous to do so by naming the charity as your beneficiary in one of these accounts rather than make the gift from other assets. This is because the charity will not have to pay income tax on the distribution. However, be certain that you do not designate a charity and an actual person as partial beneficiaries of the same account. This will limit the distribution options to the actual person.

Rather, set up a separate account (you may divide your IRA into two smaller accounts) for the charitable gift.

CHECKLIST FOR YOUR SURVIVORS

Making a list of your assets and liabilities (with account numbers), insurance policies, and monthly obligations is one of the best bequests you can leave your survivors. Prepare the list and make sure your spouse or executor knows where it is.

LOCATION OF WILLS AND OTHER IMPORTANT DOCUMENTS

We suggest that you keep your will and other important documents in a home safe that is fire proof or a safety deposit box. For the benefit of your survivors, we also suggest that you make access available to someone other than yourself (for instance, have your executor be a signer on your safety deposit box). It is important that these documents be accessible by your agent(s) without your assistance.

FAMILY DISCUSSION

Whatever you decide to do (bequests, final arrangements), we strongly recommend that you review it with your family while you are still alive. This is true even if there may be a disagreement with some of your decisions. Indeed, we have seen many instances where failure to have this discussion can leave your family in turmoil. Such discussions are not easy. Please contact us if we can help you facilitate this family talk.

CREATING A LEGACY

So far we have been talking primarily about assets. But know that you are creating your true legacy every day as you live your life according to your values. Those who know you and love you will never forget. But what about those who come after? Have you ever wondered about your own ancestors that you never knew: how they lived, their place in history, what they believed in? You can compile this information for you and your family. It can start with something as simple as a folder with jotted thoughts, diary entries, and special photos. Or you may prefer something more sophisticated like a structured video or DVD. A skilled interviewer can take you through your thoughts on various issues: what your parents were like, where you grew up, when you met your spouse, how you felt when your children were born, what is the most important lesson you've learned...the list goes on. And it doesn't have to be limited to specifically personal or family items. You can include your thoughts on WWII, the moon landing, the information age. As you work on this, remember that people will learn as much from your failures as your successes, they will be comforted by the fact that you faced struggles just as they do. So be honest and share a real slice of you. This will be your most invaluable gift of all. If you need assistance

or referral to a service that can help you with a legacy video or DVD, be sure to contact us.