

## **BASIC ITEMS TO CONSIDER BEFORE CREATING AN ESTATE PLAN**

The purpose of this article is to acquaint you with the fundamental principles of estate planning. There are many exceptions and limitations to each principle which are too complex to be dealt here. Estate planning includes a wide variety of tax, property and probate concepts with terms which may be unfamiliar to you. A basic understanding of these concepts is necessary for you to make critical decisions affecting your family. Estate planning is how you provide for your family or beneficiaries, before and after death. It may involve management of investments, operating a business, supporting a spouse and/or minor children, or minimizing taxes. If you are a single person, all of the information applies to you except that you have no marital deduction available for a bequest to a spouse or in trust for a spouse.

When a major change occurs in your family situation, your net worth or the tax laws, your estate plan should immediately be reviewed. A suggestion is to formally review your plan every five years as a rule of thumb but think about your plan yearly. Several basic items need to be considered prior to meeting with an attorney to discuss one's estate plan.

- A. Value of assets. The attorney is not trying to be nosy about how much you are worth. The attorney is only attempting to familiarize himself with the need to discuss any tax ramifications with you. An inventory of your assets and liabilities is the starting point for your estate plan. In most cases, fair market value must be estimated. In all cases, however, ownership or title needs to be known. Copies of deeds and stock certificates are needed to avoid mistakes regarding ownership. If you own stock in a closely-held corporation or an interest in a partnership, he will need the names and ownership of the other shareholders or partners. Do not forget life insurance, including life insurance through your employment, IRA, 401(k) assets, etc. Remember that the house or cottage you bought 10 years ago has likely appreciated in value.
- B. Minor children. If you have minor children, who should take charge of them (their guardian)? Should it be a couple and if they divorce or one dies should a successor be named? A brother, sister, friend, or other relative may likely be a better choice than a parent or other person who is elderly. Does the proposed guardian have a child or children of their own? Are their children the same ages as yours? Are the proposed guardians about the same age as you? Do they have room to take in 1-2-3 or more children? Be sure to have a primary choice and then 2 or 3 alternates as backups.
- C. Personal representative of the estate. If any asset passes through probate, this is the person who is responsible to do it—the fiduciary—known in the past as the executor or administrator. This person is going to handle the

details of your Will, pay your debts and collect assets, and be responsible to distribute whatever is left to whom you choose to leave your estate.

1. Corporate fiduciary. They do not die—they are permanent. They charge a fee for their services. They are impartial to the beneficiary. They are professionals—this is their business. They can be "cold hearted" without worrying about it. They provide all of the required services.
  2. Individual fiduciary. They can, but do not have to, charge a fee. They are your friend and/or confidant. They may be more adept at running your business—a partner. They provide a personal touch.
- D. Beneficiaries. Are your assets to pass to your spouse or to your child or children? What happens to the asset if your primary beneficiary predeceases you? Is your child's spouse to receive your child's share, or is it to go to your child's children? What happens if your child's children are less than 18, are the assets to be held for that beneficiary until a different age is obtained? If your assets are to be held until a certain age, who is going to hold them, invest them, and generally be responsible for them (the Trustee)? Should they receive the assets at various ages—20% at age 25; remainder at age 30? Are there specific gifts to be given to certain people or entities? We must strive to answer all of the "what if" questions!
- E. Charity/Church. Should a charity or a church be receiving something—a percentage or a dollar amount?

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