

## Is Your Estate Plan Complete?

Contrary to popular belief, "estate planning" is not just for the very wealthy. Planning for management and distribution of your property and assets is important for everyone. An up-to-date estate plan will help you make these important arrangements and will save most families a tremendous amount of money and grief following the death of a loved one.

### What is Estate Planning?

A proper estate plan puts your property and resources to the best possible use for you during your lifetime, and for later distribution to "beneficiaries" after your death. Your "beneficiaries" (sometimes called "heirs") are those people you want to receive your money and possessions after you die.

In many cases, estate planning preserves your property if you become disabled or need assistance during your lifetime. Proper estate plans also reduce or eliminate substantial taxes and costs paid during lifetime and at death. A well-designed plan considers each of the following:

- Lifetime Planning for retirement, income tax, possible disability, and protection of your property from creditors;
- Transferring Property at Death and making arrangements to help your beneficiaries manage their inheritances; and
- Reducing or Eliminating Gift and Estate Taxes which must be paid soon after death.

### *Lifetime Planning*

**Retirement and Income Tax Planning.** Everyone should be concerned with income tax savings and proper retirement planning. Planning may include deferring or advancing income, contributing to pension and retirement funds, budgeting a long-term savings plan, and reviewing investments, insurance, and retirement accounts periodically. A "team" of professional advisors might include your accountant, stockbroker, financial planner/personal banker, insurance agent(s), pension advisor, and estate-planning attorney.

**Planning for Disability.** Physical or mental disability from injury, illness, or disease can rarely be predicted. Advance arrangements for disability are an essential part of any estate plan. If advance plans aren't made, the probate court has a system called a "conservatorship" which will probably apply. Although conservatorships are appropriate for some people, conservatorships may be expensive and are generally not the best option. Some alternatives to conservatorships include revocable and irrevocable trusts, "special needs" trusts, durable powers of attorney, and living wills or medical care powers of attorney. Trusts and powers of attorney permit someone else to make decisions for you without the intervention of the probate court concerning your property, health care, life support, and other medical needs. This planning should be coordinated with your retirement, public assistance, and social security benefits plans.

**Asset and Risk Planning.** Protecting assets and income from overreaching creditors may be important for some people, such as professionals and business owners. Planning opportunities include certain corporations, partnerships, trusts, and limited liability companies. All of these plans must be completed before you are aware of threatened creditor actions.

### ***Transferring Property at Death***

**Selecting the Best Method and Documents.** Property is often transferred at death by filing a "probate" court proceeding. Probate may be needed for those who die "intestate" (without a will), and for those who have a will. Probate starts when the will and certain forms are filed with the probate court where the decedent lived, and where the decedent's property is located.

Other techniques for transferring property at death include joint tenancy, beneficiary designations, or according to the terms of certain trusts. All of these techniques have different benefits and costs, depending upon the type of property you own and your own unique circumstances. A combination of these planning techniques is usually best. Only a qualified estate-planning attorney can advise you and prepare the legal documents necessary for your estate plan, given the myriad of state and federal property and tax laws that apply at death.

**Protecting your Beneficiaries.** Proper estate plans also take into account plans for minor children and beneficiaries with special needs. Such plans include selecting guardians and controlling the timing and amount of property distributed. You may also protect your beneficiaries' inheritances from lawsuits and claims of spouses in the event of divorce. Applicable restrictions may be very rigid or very flexible with proper advice and planning. However, attempts to control distributions may not be enforceable unless properly described in precise legal terms.

### ***Gift and Estate Taxes***

Planning for death taxes may be an important part of your plan. Many people are not aware that federal and state death taxes, called "estate taxes" and "inheritance taxes" apply to the value of all property owned at death. Tax rates can range between 37% and 50%. Proper planning can greatly increase the amount of property going to your heirs, rather than to federal and state tax agencies. Common strategies include use of the maximum exemption against estate taxes and deductions for property given to spouses. Other strategies include irrevocable trusts and gifts to heirs that qualify for annual exclusions from gift tax. Advanced planning techniques that take advantage of valuation discounts, deductions for charitable gifts, and gifts intended to skip generations of estate tax are also possible. Because tax rules are all very complex, this planning requires the advice and guidance of a qualified estate-planning attorney.