Rosenberg Financial Group, Inc.

A Registered Investment Advisor

Who Really Gets My Money When I Die

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For a free Consultation call:

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First, let's begin with a disclaimer. We are not attorneys and are not giving legal advice. Legal advice may only be provided by an attorney. The purpose of this Guide is to provide you with a basic overview of estate planning and is not a substitute for competent legal advice. Additionally, when we refer to "protecting your estate," we are talking about passing your property to the people you desire, in the way you desire, and at the time you desire.

Most people give little more than a passing thought to what will happen to their money (estate) when they die. Sure, they might have a will – but chances are it hasn't been reviewed or updated recently. So the purpose of this guide is not to give you specific advice, but to help you focus on the estate planning decisions you need to make now. The end result should be that upon your incapacity or death, your wishes will be fulfilled.

Now, before starting, let's understand that when most people hear the words, "estate planning" they imagine the type of planning that only applies to the Jeff Bezos of the world . . . people with tremendous wealth. Well wipe that thought from your mind. Most people have an estate, it's just that some are larger than others. So of you want to save money and eliminate friction and burdens on your family, you need to take this job very seriously.

To show you how important this is, here's a true story. Pam (not her real name) attended one of our seminars, and asked if she could tell her story to the group. She explained that for ten years she had asked her husband to get a will. But he just kept putting it off. Then, he died suddenly. It ruined her financially. The home they had lived in for years was in his name only. Because he didn't have a will, the court determined who would inherit this property. Pam now owns one-third of this home, and her deceased husband's two sons own the other two-thirds. The same thing happened to his savings. Pam thought she would have plenty of money to live on, but now she is barely making ends meet . . .solely because he didn't have a will.

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Why You Should Have A Will?

Pam's husband died "intestate." That simply means he died without a will. Let's look at what happens in that case. Even if you don't have a will, you really do. It's just that your friends in the State Legislature have written one for you. In other words, they, not you, will determine where your money goes. Here are some of Georgia's intestate rules:

- If there is a surviving spouse, but the deceased has no children, the spouse receives everything.
- If the deceased has a spouse and children, the estate is split equally between them, with the spouse getting no less than 1/3. Any child of the deceased, <u>whether he is also the child of the surviving spouse or not</u>, shall be considered a child.
- If there are children but no surviving spouse, the children shall get it equally. If one or more of the children are not living, their share shall go equally to their descendants.
- If there is no spouse or child, then the parents are next. If no parents, then it goes to siblings.

Your will is also where you can designate a <u>guardian</u> to care for your minor children in the event of your death. However, just because you name a guardian for your kids, it doesn't mean that the court will agree with you. For example, assume a person is divorced and remarried and he or she wants the step-parent to be the guardian. If the natural parent wants custody, the court could put that person ahead of your designee.

If you have minor children or special needs children of any age, you might want to consider using some type of a trust to provide for those children. Whereas you can only nominate a person to act as guardian, you can choose a person to handle the money.

<u>It's important to know what your will generally does not control</u>:

Property held in a trust unless the trust is created by the will.

Beneficiary designations on retirement accounts, insurance policies, bank and investment accounts, <u>as long as you didn't name your estate as a beneficiary</u>. If you did name your estate, then the property distribution is controlled by your will. In addition, if you don't name a beneficiary or contingent beneficiary at all, then the distribution will pass according to your will.

Property owned in joint tenancy, as long as there is a survivor.

The lesson here is simple: if you have not made written and explicit instructions detailing where you want your "stuff" to go, then a family disaster might be right around the corner. What are some of those potential disasters? Here are just a few:

- High legal fees to straighten out the mess.
- Money going to the wrong people.

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- Money not going to specific people.
- Family feuds
- Someone other than you deciding where your money goes.
- Inadvertently disinheriting some of your heirs.
- The court deciding who will be the guardian of your minor
- children.
- Children who can't handle money getting their inheritance all at once and
 blowing it.
- The court appointing someone (an executor) to handle the administration of your estate, instead of <u>you</u> appointing the person <u>you</u> want.

Understanding the Different Types Of <u>Joint Accounts</u>

There are primarily two ways you can hold property jointly: joint tenancy with rights of survivorship, and tenants in common. Let's look at both.

<u>Joint Tenants with Rights of Survivorship</u> means that you both own the asset, but nobody owns it by himself. When you die, it all goes to the remaining joint tenant(s). It does not go through probate as long as there is a surviving tenant.

Joint Tenants With Rights of Survivorship is used primarily with investment accounts and home ownership. The husband wants his wife to get it all when he dies, and vice versa. You can have any number of joint tenants. But it can get tricky. Assume you own property in joint tenancy with your brother and your sister. Once the first of you three die, the other two become the remaining joint tenants. Then when the second dies, the last surviving member gets it all. That may or may not be what you wanted. So you need to talk to an estate planner before you make that decision. You might inadvertently disinherit someone. Additionally, unlike tenants in common, you can't sell your share unless all the other tenants agree. Again, you don't own anything by yourself . . . you own it as a group.

However, there are potential hazards with joint ownership. For example, if you add your son to your home as a joint tenant, and if you want to sell it but he doesn't want you to, you're stuck - you both have to agree. Likewise, if he runs into financial problems and gets sued, your home can be considered his asset. So talk this through with a financial advisor or attorney before making your decision.

<u>Tenants in Common</u> means you own property with somebody else, but you each own your half. Upon your death, your half will go to the person(s) you name in your will, and the same will happen when the other person dies. It does not go automatically . . . it has to go through probate. You can have any number of people own the property.

For example, you own property with your brother, but when you die you want your part to go to your children, not your brother, then you might want to title the property as Tenants In Common.

However, Tenants in Common sometimes happens by mistake. You buy a house with your spouse, and for whatever reason the attorney didn't title it as joint tenancy. So at the first death, instead of going directly to the sur-

Simplifying Bank and Investment Accounts

If you and your spouse have a bank account titled John Smith or Mary Smith, this tends to work the same as Joint Tenants with Rights of Survivorship. The survivor automatically gets the account. Just remember that if you put your bank account in your name "or" your child's name, the account belongs to either of you. So when you die, the child gets everything. There is no legal obligation that he or she does what you intended. So, one way to help protect against this is to make the account "Payable on Death (POD)."

The same is true with investment (non-retirement accounts) with brokerage or mutual fund companies. You can title them as "Joint Tenants with Rights of Survivorship (JTWROS)", as we discussed above. However, while these firms don't offer "Payable on Death" designations like the banks do, they do offer "Transfer On Death (TOD)", which do the same thing. This can be very helpful when you want to leave assets to non-spouses (children, grandchildren, etc).

Having the Wrong Beneficiary Designation on Your Retirement Account Can Be Costly

Many accounts allow you to name beneficiaries. Life insurance policies, insurance annuities, and retirement accounts are the prime examples. This is the good news.

The bad news is that many people name their "estate" as their beneficiary. Or worse, they don't name a beneficiary or contingent (secondary) beneficiary. It's important that you understand that if you name your estate as the beneficiary of your IRA, 401k, insurance policy, etc., then this property will be distributed according to your will. Same is true if you don't name a beneficiary at all. So if you name your spouse as the beneficiary of your 401k, but you don't name a contingent beneficiary, and if your spouse dies before you do, that money will go through probate and pass according to the instructions in your will.

That's not your only problem when it comes to passing retirement accounts. If there is no named beneficiary, and thus the money passes according to your will, the recipients of the money will lose certain tax benefits. That's because a named beneficiary can receive the money and "stretch" the distributions over his or her life expectancy. Here's how this works:

Let's say you have a spouse and two living children. If you've named your spouse as your beneficiary, your IRA becomes hers when you die. She can do whatever she wants with it, including naming beneficiaries. She can let the IRA continue to grow, or she can withdraw the money. But she doesn't have to start taking distributions until she's 72. That means the funds will continue to grow tax-deferred for all those years.

On the other hand, assume you didn't name a beneficiary or you didn't name a contingent beneficiary. Then, as we said previously, the money will pass according to your will. That means no deferral and the money will have to be taken out (and taxed) within five years, assuming you haven't already started your Required Minimum Distributions. As a result, the money won't be able to grow tax-deferred until required distributions begin.

The lesson is to always name beneficiaries. It will save time and aggravation after you die.

How Trusts Work

A trust is a legal entity you create to hold and manage assets. The two main types of trusts are revocable (meaning they can be changed), and irrevocable (meaning they cannot be changed). A trust can be established during your lifetime (living trust), or upon your death as directed by your will (testamentary trust).

The assets held in the trust are called trust property. A trustee is the person(s) or institution that is named to manage the trust property according to the terms of the trust. For example, if you were a parent of a special needs child, you could place assets in a trust for the benefit of that child, with the instruction as to how that money would be distributed over your child's lifetime. If it's for your surviving spouse or children, you would name a trustee to oversee those assets. The trustee can be a bank or an individual. Just make sure you can "trust the trustee!"

Living trusts take effect immediately. They can help while you are alive and after you're gone. You can be your own trustee of your living trust, and you can name successor trustees in the event that you are unable to handle the duties yourself. Living trust property can avoid probate as long as the property in the trust is titled in the name of the trust. The other benefit of a living trust is that you can name disability trustees to take care of you and your assets in the event that you are not able to handle it yourself.

Testamentary trusts take effect at your death. Therefore, they won't take care of you in the event of your disability, and they will go through probate.

Talk to an attorney about which is best for you.

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How Gift and Estate Taxes May Affect You

Whereas this won't apply to most people, it is important that you understand gift and estate taxes. Gift and estate taxes are lumped together in this discussion because "they are joined at the hip." Technically, the estate tax and gift taxes are "unified."

There are three types of exemptions/exclusions:

- The Unlimited Marital Deduction
- The Lifetime Estate and Gift Tax Exemption
- The Annual Gift Exclusion

The **Unlimited Marital Deduction** allows married couples to give or leave an unlimited amount of assets to his or her spouse (US Citizens only) estate-tax and gift-tax free.

The **Annual Gift Exclusion** allows you to give any person or persons up to $15,000 (2021) free of gift and estate tax ramifications each year. And, if you're married, <u>each</u> of you can give $15,000 to as many people as you want each year.

The Lifetime Estate and Gift Tax Exemption allows you to give or leave up to $11.58 million (2021) worth of assets during your lifetime.

Let's pull this all together. In 2021, the estate tax exemption, or "applicable exclusion amount," is $11.58 million per person. It is adjusted annually for inflation. That means if a person dies during 2021, and his estate is worth less than $11.58 million his estate will not owe any estate tax under normal circumstances. To reiterate, that's $11.58 million for each spouse. So, this only presents a problem if you're in the famous top 1% or so.

However, what always raises a lot of questions, regardless of wealth, has to do with the ramifications of making or receiving gifts.

First of all, you need to know the IRS's definition of a gift: *anything you transfer for less than fair market value*. Second, <u>gifts don't normally have any income tax consequences</u>, except as discussed below. Assume you want to give your $200,000 house to your daughter. You don't want to pay gift taxes, so you sell it to her for $1. That won't work, because you sold it to her for less than fair market value. The full $200,000 (less the $1.00!) is the amount of the gift.

But still, for most people, that won't matter. Why? Because as we saw above, gift and estate taxes are related. So, in addition to a gift tax exclusion of $15,000, you also have the Annual Lifetime Gift/Estate Exemption. So, in our example above, your gift of $200,000 was $185,000 in excess of your $15,000 exclusion. But it's no problem. Why? Because the
excess only reduces your lifetime exemption. So you would merely file a gift and estate tax return that would reduce your lifetime exemption by $185,000. That's it. No estate or gift taxes.

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Finally, let's talk about gifting appreciated property. Sometimes parents want to give property to their kids, so it doesn't get taken in the event they go into a nursing home. This can be difficult to do. And it has a lot of ramifications, including potential gains on the sale of appreciated property.

We meet with people who own property that had been <u>transferred</u> to them while a parent was alive or <u>left to them</u> at a parent's death. If this is you, then you need to understand the tax ramifications.

Property received at death. If you inherit property upon the death of a parent, or anyone else for that matter, you will need to determine the value of that property. That's because when you sell it, there will be capital gains taxes only on any appreciation between the **date you inherit the property** and the **date you sell it**. This is the big advantage of inheriting property.

Property received as a gift. On the other hand, if you receive a gift of property, then when you sell it, the cost basis will be the <u>value at the time the property was purchased by the person who made that gift</u>. This can be significant. So before you make or receive gifts, be sure to determine the tax ramifications. And to make it easier down the road, get a written appraisal as of the date of the gift.

Eleven Things You Need to Tell Your Family

There is a lot of information that your family will need to know when you pass, and you can write these things down for them in a "letter of instruction." This is not a legally binding document, but it will tell them where things are, and what you want them to do. Here are just some of the details you can provide in this letter:

1. A list of people to contact when you die.
2. A list of organizations to contact who may need to be involved in your funeral.
3. Instructions for the funeral and burial/cremation and whether you have pre-paid with a funeral home.
4. The location of important documents such as your will, birth certificate, Social Security card, DD214, etc.
5. A list of all financial accounts and contracts: bank accounts, retirement accounts, life insurance, annuities.
6. Contact information for lawyers, financial planners, and tax preparers, etc.
7. Passwords and PIN numbers for online accounts.
8. The location of safe deposit boxes.
9. A list of all debts owed.
10. Instructions for distribution of personal items.
11. A personal message to your family.

If you want an easy way to do this, download "My Life Book" from **www.retirerelax.com**. There's no cost to do this, and it will walk you through all of these steps.

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What Does Rosenberg Financial Group, Inc. Do?

We believe that most investors want a specialist. They want to call and talk to a person that understands them and can provide for their needs. They don't want a person who represents a company that is trying to push more of their products through their sales system.

At Rosenberg Financial Group, Inc., we have created the **RetireRelax Solution™** that assists us in managing our clients' money. This disciplined investment approach for retirees and pre-retirees includes an exit strategy when we feel that risk is high. Keeping an eye on the investment landscape for our clients is something we do each and every day.

To learn more about us, just download the report: ***"What Do I Need To Know About Rosenberg Financial Group, Inc.?"*** from our website.

To learn about complementary consultations, just download the report: ***"What Can You Expect When You Come In For Your Complementary Consultation?"*** from our website.

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If you would rather get paper reports, just call **(800) 777-0867** and leave a message as to which report(s) you are interested in. We'll mail them to you at no cost or obligation.
www.RetireRelax.com

Be sure to listen to *"Your Money"* with Steve Rosenberg, Sherri & Randy Goss, and Becca Wilton live every Saturday morning at 9:00 on WMAC, AM940.

Sherri also appears as WMAZ's Financial Expert every Wednesday afternoon on the 5:00 edition of *Eyewitness News.* After her appearance, Sherri remains at the station until 6:00 and takes personal questions by phone.