



Who Needs Estate Planning?

Why estate planning is so important, and not just for the rich.

Provided by Chase VandeYacht - Tax Management Services

You have an estate. It doesn't matter how limited (or unlimited) your means may be, and it doesn't matter if you own a mansion or a motor home.

Rich or poor, when you die, you leave behind an estate. For some, this can mean real property, cash, an investment portfolio and more. For others, it could be as straightforward as the \$10 bill in their wallet and the clothes on their back. Either way, what you leave behind when you die is considered to be your "estate".

"But, I don't need estate planning ... do I?" Let's think about that. If the estate is small, should you still plan? Well, even if you're just leaving behind the \$10 bill in your wallet, who will inherit it? Do you have a spouse? Children? Is it theirs? Should it go to just one of them, or be split between them? If you don't decide, you could potentially be leaving behind a legacy of legal headaches to your survivors. *This, quite simply, is what estate planning is all about – deciding how what you have now (money and assets) will be distributed after your lifetime.*

Do you HAVE to create an estate plan? While it is absolutely *possible* to die without planning your estate, I wouldn't say that it is *advisable*. If you don't leave behind an estate plan, your family could face major legal issues and (possibly) bitter disputes. So in my opinion, everyone should do some form of estate planning. Your estate plan could include wills and trusts, life insurance, disability insurance, a living will, a pre- or post-nuptial agreement, long-term care insurance, power of attorney and more.

Why not just a will? Did you know that your heirs could encounter legal hassles ... even if you have a will? Basically, a will tells the world what you'd like to have happen, but proper estate planning is what provides the tools to make those things happen. While your will may state who your beneficiaries are, those beneficiaries may still have to seek a court order to have assets transfer from your name to theirs, and in such a case, those assets won't lawfully belong to them until the court procedure (known as probate) concludes. Estate planning can include items like properly prepared and funded trusts, which could help your heirs to avoid probate.

Where do you begin? I recommend that you speak with a qualified legal or financial professional – one with experience in estate planning. A qualified financial professional may be able to refer you to a good estate planning attorney and a qualified tax professional, and lead a team effort to assist you in drafting your legal documents.

AN ESTATE PLANNING CHECKLIST

Things to check and double-check before you leave this world.

Estate planning is a task that people tend to put off, as any discussion of “the end” tends to be off-putting. However, those who leave this world without their financial affairs in good order risk leaving their heirs some significant problems along with their legacies.

No matter what your age, here are some things you may want to accomplish this year with regard to estate planning.

Create a will if you don’t have one. It is startling how many people never get around to this, even to the point of buying a will-in-a-box at a stationery store or setting one up online.

A 2011 Associated Press-LifeGoesStrong.com poll of 1,078 boomers found that 64% had no will or health care directive in place. That syncs roughly with statistics from a 2012 poll of 600 U.S. consumers and small business owners conducted by legal services website RocketLawyer.com. It found that 42% of “leading edge” baby boomers (people age 55-64) lacked wills.^{1,2}

A solid will drafted with the guidance of an estate planning attorney may cost you more than a will-in-a-box, and it may prove to be some of the best money you ever spend. A valid will may save your heirs from some expensive headaches linked to probate and ambiguity.

Complement your will with related documents. Depending on your estate planning needs, this could include some kind of trust (or multiple trusts), durable financial and medical powers of attorney, a living will and other items.

You should know that a living will is not the same thing as a durable medical power of attorney. A living will makes your wishes known when it comes to life-prolonging medical treatments, and it takes the form of a directive. A durable medical power of attorney authorizes another party to make medical decisions for you (including end-of-life decisions) if you become incapacitated or otherwise unable to make these decisions.

Review your beneficiary designations. Who is the beneficiary of your IRA? How about your 401(k)? How about your annuity or life insurance policy? If your answer is along the lines of “Mm ... you know ... I’m pretty sure it’s...” or “It’s been a while since ...”, then be sure to check the documents and verify who the designated beneficiary is.

When it comes to retirement accounts and life insurance, many people don’t know that beneficiary designations take priority over bequests made in wills and living trusts. If you long ago named a child now estranged from you as the beneficiary of your life insurance policy, he or she will receive the death benefit when you die - regardless of what your will states.³

Time has a way of altering our beneficiary decisions. This is why some estate planners recommend that you review your beneficiaries every two years.

In some states, you can authorize transfer-on-death designations. This is a tactic against probate: TOD designations may permit the ownership transfer of securities (and in a few states, forms of real property, vehicles and other assets) immediately at your death to the person designated. TOD designations are sometimes referred to as “will substitutes” but they usually pertain only to securities.^{4,5}

Create asset and debt lists. Does this sound like a lot of work? It may not be. You should provide your heirs with an asset and debt “map” they can follow should you pass away, so that they will be aware of the little details of your wealth.

- One list should detail your real property and personal property assets. It should list any real estate you own, and it’s worth; it should also list personal property items in your home, garage, backyard, warehouse, storage unit or small business that have notable monetary worth.
- Another list should detail your bank and brokerage accounts, your retirement accounts, and any other forms of investment plus any insurance policies.
- A third list should detail your credit card debts, your mortgage and/or HELOC, and any other outstanding consumer loans.

Consider gifting to reduce the size of your taxable estate. Congress has presented you with a remarkable opportunity to do just that. At present, the lifetime federal gift, estate and generation-skipping tax exemption is unified and set at \$5,250,000 for 2013. This means that you have the ability to gift up to \$4.25 million more than the old \$1 million lifetime limit. In addition, the gift and estate tax exemptions are permanently portable between spouses. This means that for married couples, the lifetime gift tax exemption is set at \$10.5 million.⁶

Think about consolidating your “stray” IRAs and bank accounts. This could make one of your lists a little shorter. Consolidation means fewer account statements, less paperwork for your heirs and fewer administrative fees to bear.

Let your heirs know the causes and charities that mean the most to you. Have you ever seen the phrase, “In lieu of flowers, donations may be made to ...” Well, perhaps you would like to suggest donations to this or that charity when you pass. Write down the associations you belong to and the organizations you support. Some non-profits do offer accidental life insurance benefits to heirs of members.

Select a reliable executor. Who have you chosen to administer your estate when the time comes? The choice may seem obvious, but consider a few factors. Is there a stark possibility that your named executor might die before you do? How well does he or she comprehend financial matters or the basic principles of estate law? What if you change your mind about the way you want your assets distributed - can you easily communicate those wishes to that person?

Your executor should have copies of your will, forms of power of attorney, any kind of healthcare proxy or living will, and any trusts you create. In fact, any of your loved ones referenced in these documents should also receive copies of them.

Talk to the professionals. Do-it-yourself estate planning is not recommended, especially if your estate is complex enough to trigger financial, legal and emotional issues among your heirs upon your passing.

Many people have the idea that they don't need an estate plan because their net worth is less than X dollars. Keep in mind, money isn't the only reason for an estate plan. You may not be a multimillionaire yet, but if you own a business, have a blended family, have kids with special needs, worry about dementia, or can't stand the thought of probate delays plus probate fees whittling away at assets you have amassed ... well, these are all good reasons to create and maintain an estate planning strategy.

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