

Why Do You Need an Estate Plan?

*In this world nothing can be said to be certain, except death and taxes.
– Benjamin Franklin*

An estate plan is simply the legal and financial arrangements that you make for the management and distribution of your property after your death, including such documents as a will and personal trust. Unless you have an estate plan, you could leave your family with legal problems and tax burdens – instead of the valuable assets you intended for them.

Your estate may very well be larger than you realize, so it could be more vulnerable to estate taxes than you think. All of your property is part of your estate: investments, IRAs, 401(k)s, deferred compensation, stock options, homes, cars, boats, insurance – in short, everything. Remember: *If you own it, it can be taxed.*

The dangers of not creating a plan

If you don't have an estate plan, much or all of your property could go to people other than those you (or even your survivors) want to benefit. The value of your estate could be dramatically reduced by unnecessary taxes and legal fees, and your survivors might have to struggle for months to untangle the bureaucratic and legal problems that you leave behind.

Why would the lack of an estate plan cause all these problems? The answer is simple: Everyone has a default estate plan – a “one size fits all” plan devised by your state government. That plan, which almost certainly won't fulfill your wishes, will dictate who receives what property and when, and it may require some expensive and time-consuming procedures that would have been rendered unnecessary if you have had your own estate plan. Some of the dangers of not having an estate plan – or a poorly prepared one – are these:

- Neither you nor your survivors will decide how and when your property is distributed – so one or more of your survivors could suffer financial distress. Some survivors may feel shortchanged, creating unnecessary conflict in your family, or a child with special needs may not benefit from the assets you intended to be used for ongoing medical or other care.
- A state court will appoint a guardian for any minor children – and that person may be someone you regard as unsuitable.
- The full force of estate taxes will be brought to bear on your estate. Do not underestimate the devastating effect that estate taxes can have.
- The legal process of settling your estate could drag on for months – delaying the distribution of assets to survivors, some of whom may suffer financial hardship.

- Your estate could be subject to unnecessary legal and administrative costs that could significantly reduce the assets available to your family.

How a good estate plan can help

Unfortunately, accidents and illness can claim the lives of even young, seemingly healthy people, so estate planning is not something you can put off. An estate plan is a most thoughtful gift to give to your survivors, ensuring that they are secure – financially and otherwise – in your absence. A well-conceived estate plan can help in the following ways.

- *Provide for your family.* A properly structured estate plan can ensure that your estate contributes to the financial security and well-being of your survivors. Such a plan allows you to formally designate whom you wish to be the legal guardians of your minor children.
- *Distribute property quickly.* Property should be turned over to survivors without unnecessary delay or bureaucratic and legal hassles. An estate plan allows you to dispose of your assets how you see fit; without an estate plan, the government will designate the individuals entitled to share in your assets.
- *Prepare for the unexpected.* Relatives and friends can be given clear direction on how your financial affairs and medical care should be managed in the event that you become injured or too ill to tell them.
- *Minimize taxes and costs.* Assets should be protected from unnecessary taxes and fees that would deplete what is available to your survivors. An estate plan can help shift money to your designated beneficiaries while minimizing the government's take.
- *Protect your family's privacy.* Personal trusts and gifts can be used to distribute your estate, without subjecting your estate and beneficiaries to the public scrutiny that is possible with a will.
- *Creditor protection.* An estate plan could prevent your assets, which are passed to your designated beneficiaries after death, from being reached by the creditors of your designated beneficiaries. Without an estate plan, your assets would be distributed outright and the creditors of the individuals receiving the assets likely would be able to seize those assets to satisfy outstanding liabilities.

Those benefits, among many others, are reason enough to create an estate plan. The formal documents in your estate plan should be drafted by a capable, experienced estate planning attorney.

If you have any questions regarding the matters discussed in this article or if there is anything we can do to help you with your estate planning or business succession planning needs, please feel free to contact Serge Biberman at 312-410-7863.