PRACTICAL PLANNER
NEWSLETTER
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PLANNING POTPOURRI

o Parents' Planning: Often the best way to open a discussion with elderly parents is by focusing on personal, not money, issues. Do your parents have a living will? Do they have specific personal wishes they may want respected? Religious preferences? If you open with non-money issues it is less offensive and your parents are less likely to feel you are motivated by greed than by concern for them. There is no shortage of real life problems in the press that can be used to remind your parents of the importance of addressing these issues. Use a current article as a catalyst for a discussion about your parents' planning. The tone and approach should be "Mom….I'm worried….How can I help you? How can I make sure what you want done will be done your way?" Once the door is opened you can continue to address the most vital personal issues: "Mom did you sign a living will and health care proxy?" "Did you give copies to your agent?" (That is instead of asking for a copy for yourself in case a sibling or other family member was named). "Mom did you prepare a power of attorney so if you become ill someone can make sure your bills are paid? Can I help?" Once the initial hurdle is surmounted, you can go on to address the other issues.

o Quicken: Use it for more than just paying bills. Listing all assets you own, even if you don't enter all transactions, is a great way to provide those you rely on a current check list of accounts, assets, etc. Be sure to back up onto CDs and store offsite. Consider giving your agent your back-up copies along with pass codes. In an emergency your agent (e.g., under a power of attorney) will have the data at hand to take action. Schedule recurring payments (e.g., insurance, monthly mortgage, etc.) on Quicken. If you are disabled (or die) these automatic reminders will be a tremendous help to your agent (executor).

o Unused Trusts: If you have a trust that is no longer used (e.g. and insurance trust for which the policy has long ago lapsed), or was never funded (a child's trust that you opted instead to set up a 529 plan), have the grantor, trustees and beneficiaries all sign an acknowledgement terminating the trust. This simple document confirms the termination of the trust so that there are no loose ends. In the event of an IRS audit, or other issue, there is a record of terminating the trust agreed to by all. PP

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PRACTICAL PLANNER

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PLANNING FOR EACH PHASE OF YOUR LIFE

Planning (financial, estate, insurance, and other) steps must be tailored to make sense for each different phase of your life. Although we each wind through life milestones in our own unique order, identifying how planning typically changes over time, will help you identify steps you might want to take now, or reconsider in the future. Too often people assume "estate planning" is only for the 60 and over set. There is no age barrier to planning, and its about much more than just wills. Here's a few practical ideas for those under 60:

20s – Too young to plan, so you do nothing? Big mistake!

o Terri Schiavo was in her early 20s when tragedy struck. Sign a living will and health care proxy.
o You may not have substantial assets, or legal complications, but you should at least sign a durable power of attorney naming a parent or someone else to act if you are unable to. Whether you're back-packing through Indonesia, or just off to college, someone back home should have the authority to take care of tax, legal and financial matters for you.
o Communicate key passwords, bank and brokerage account information, credit card numbers, and other important personal data, to a trusted person in the event of an emergency. Without this information they won't be able to help.
o Purchase liability and property insurance. Don't ignore insurance coverage, as too many young people do, because your belongings are not valuable. If you own a car, or rent an apartment, you face liability risks. Get insurance. You also need the coverage to protect your belongings.
o Living with someone may seem like nirvana. But if it doesn't work out it could be a mess. Who keeps the car? Who has the liability for that 5 year lease you signed? Prepare a living-together-agreement that addresses key issues you might face if the relationship falters. It can save a tremendous amount of difficulty.
o Start saving today! Invest the maximum amount in your IRA every year from when you first start working and those simple contributions, invested and compounded, will be worth a tremendous amount in the future. Save now. Even if it's a little. Forming the habit early on can be the most important investment you make.

30s – Life is simple. You're focused on career and other issues, but don't forget finances.

o Secure a personal excess liability insurance policy to cover your auto, home and other risks. You're probably starting to save and build up your assets. You need to protect them with more than just basic coverage.
o Buy disability insurance if you don't have it. If the cost is a burden, lengthen the waiting period, but don't go without coverage. The risk of a long term disability is substantial as you start to enter prime earning years.
o At this point, if you haven't signed a will, hire a lawyer and have a will prepared that addresses your current, and near term anticipated changes.
o Take steps to protect your children: Trusts, college savings, and emergency medical forms are a good start.
o You likely need life insurance to protect your spouse and/or children. Be sure you have enough coverage to really provide the protection they need. Remember, if you want

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CHECKLIST: 2ND SPOUSES

Anna Nicole Smith, former wife of 89 year old Billionaire J. Howard Marshall continues her battle for a piece of his estate. The Supreme Court recently ruled in favor of Anna Nicole, and she will likely have a new hearing in front of a lower court to address the substantive issues of her case. Although everyone is focused on the glitz and dollars (all $1.6B) there are valuable lessons from every heir (or second or later spouse) in this case. There are specific steps even average families can learn from this case to protect themselves and their heirs. While Anna Nicole may be the most talked about case, these issues affect women and non-married partners as well, and so caution is recommendation for all:

o Sign a pre-nuptial agreement and do it right: both spouses, each with separate attorneys, complete financial disclosure, and well in advance of the wedding.
o Sign a will clearly stating what is intended for the new spouse. Wait six months. Revisit the will, making changes to other provisions, but leaving the bequest to the new spouse intact. Sign the new will. Save the old wills to demonstrate a consistent pattern of distributions to the new spouse.
o Have a trust set up for your

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...Planning for Each Phase of Your Life

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the principal to remain intact (e.g., pay "income" to your spouse and on his/her death leave the principal to the kids) your surviving spouse or partner can only withdraw about 4% a year if the remainder beneficiaries (e.g., your children) are to inherit an inflation adjusted principal value. Do you really have enough coverage? To avoid state estate tax, possibly federal estate tax, risks of your surviving spouse's new partner, etc. be sure your life insurance is owned by a trust.

o Your assets may be modest, but you're likely to want to protect them from lawsuits and claims (perhaps at this stage you own a couple of cars, have a house and a business, all of which create exposure). You might be able to own your house jointly with your spouse and thereby have some protection from either of your creditors. Consider funding an IRA, even if non-deductible, since the assets in the IRA are protected from lawsuits.

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o Review the structure of your professional practice or business and be certain that the structure provides protection for your personal assets and that you have systems in place so that formalities are adhered to. Don't let growth detract you from vital administrative matters.

o Don't neglect your retirement planning. Even if you're strapped putting money away for kids' college and paying the mortgage on your new McMansion, salt something away.

40s – You realize the Cleaver Family was only a TV show: You're on your second marriage, your adult son just moved into your basement, and you're dealing with aging parents.

o Be sure your parents have signed at least living wills and health care proxies so that you, or your siblings, will be able to help them when necessary.

o It's a touchy subject but make sure your parents are managing their finances. If they get taken for a ride by one of the many hucksters out there, you may end up supplementing their resources (instead of your retirement).

o So now that you've been through a divorce, or have at least become more realistic about the odds for your kids having a divorce, call your attorney back and re-write your will to bequeath assets in lifetime trusts rather than outright once your child reaches some specified age.

o Review your investment allocations as part of an overall financial plan. A mile-high overview is important. If you're surprised to find that you won't be able to retire at the age you thought, shift towards a more aggressive investment allocation.

o Secure a home equity line to provide emergency cash. By this stage of your life, you've likely built enough equity that this can be a great resource in an emergency (no, not to pay for that trip to Tahiti!). This might enable you to put otherwise idle cash balances to better use (i.e., more fully invested for retirement).

50s – You realize that you really do want to retire; Estate planning is the main cocktail conversation topic.

New feature: Phrases in red are defined and explained in detail on www.laweasy.com

o Its time to start thinking about long term care insurance. Evaluate the options and what really makes sense before committing. Take your time to get through the puffery to see what the real facts are.

o Now that you have a comprehensive will and estate plan in place (yes, you need a "plan" even if they repeal the estate tax) consider the benefits of a revocable living trust. This can be a tremendous technique to manage and control your assets if you become disabled or subject to a long term illness (the probate avoidance issues are often over rated).

o Review all your insurance coverage and needs. If you're in prime earnings years, be sure life and disability coverage is adequate.

o If you have a professional practice or closely held business, create a viable succession plan. This could include bringing in an associate, signing a buy sell agreement with a partner, merging with a bigger company.

You'll face your own unique timetable and needs, but they will change over time and will need to be evaluated and updated. Reflecting on the above phases will help you focus on your needs. PP

...2nd (and Later Spouses).

(Continued from page 1)

new spouse. This can give him/her the right to distributions from the money, but assure the remainder reverts to your family. Consider using a uni-trust payment arrangement (e.g., 5% of principal paid to your new spouse each year). This approach can protect your new spouse and children who receive the trust assets on his/her later demise, while enabling your trustees to invest using an asset allocation model that benefits all parties.

o If there is a change from the prenuptial agreement, e.g. favoring the new spouse, have your matrimonial counsel amend the prenuptial agreement, using all appropriate formalities. Revise your will and other estate planning documents to confirm these wishes. Its important that all documents are consistent to minimize future problems.

o Have your new spouse waive any rights under state law to claim a specified portion of your estate (called spousal waiver of right of election).

o Don't video tape your will signing. Contrary to popular belief, video tapes can often be used by a forensic expert to undermine your position! If videotaping is suggested carefully review the pros and cons before making a commitment.

o Sometimes there are easier steps to keep everyone happy. If health and age permit, insurance can be used as the great equalizer. Example: Set up a life insurance trust to own enough life insurance to more than provide for your new spouse, and then leave your estate to your children. This might eliminate any conflict on allocation of your estate, investment and distribution of trust assets, etc. A similar approach may be achieved by signing and funding a revocable living trust to leave some assets to your new spouse. Instead of the common approach of having a pour over will that transfers assets to the trust, keep the documents independent so that your children don't have to focus on the additional bequests to your new spouse.

o Don't forget, its not only about a will. What if you designate your new spouse in a form durable power of attorney as your agent? Some form powers of attorney permit gifts without limit, and the right of the agent to change beneficiary designations. If you become incapacitated might your new spouse make gifts to himself and name himself as sole beneficiary on your retirement assets? Powers of attorney can be the most significant document governing the disposition of your assets, don't treat them as a standard form.

o Watch the title to your assets. If you change assets to joint with your new spouse, your will won't affect the disposition of those assets.

o The tax allocation clause in your will could be critical to the ultimate disposition of your estate. Example: You bequeath half of your estate to your new partner and the remaining half to your children, but they pay the state and federal estate tax on their receipt. The taxes might shift the net effective allocation to 2/3rds your partner and 1/3rd your children!

o Don't overlook protecting your new spouse. The above steps not only confirm what your children should inherit, but they can confirm what your new spouse should receive. If you increase what you want your new spouse to have, such as by gifts, give regularly, revise documents confirming the increases. Show the pattern. PP

Recent Developments

Do we still have an estate tax? We might not by the time you read this. The latest estate tax proposal would exclude $5 million from estate tax for each person, and let the surviving spouse use any remaining exclusion from the first to die spouse. This would be an effective $10 million in assets that could pass free of federal estate tax without even requiring a bypass trust. The rate is to be reduced, on estates of $25 million or less, to the same rate as the capital gains tax, currently 15% (scheduled to increase to 20%), and double that on larger estates (which is still much less then today's tax rate). Whether this bill, or some variation passes, bear in mind that effective estate planning is never one-dimensional. It requires addressing: asset protection, insurance, investments, business succession, protecting loved ones, income tax planning, and more. Much will change, but the need for planning will not. Example: If, as a result of this bill being enacted, your estate is not taxable for GST purposes, you could bequeath all your assets into a dynasty trust to protect them from any future estate tax, save state income tax, protect assets from an heir's divorce or creditors. This type of planning remains limited today because of the costs of the GST tax. Increasing the GST exemption to $5 million means more planning opportunity. Powers of attorney often have elaborate gift provisions. Eliminating them might harm your heirs in the event of your disability, so simply deleting those clauses because of the inapplicability of a tax advantage could be a mistake. Careful planning will remain important. Even if the estate tax is repealed, it won't diminish litigation risk, so protecting assets will remain an objective for many. Therefore, trusts will continue to be the vehicle of choice for gifts and bequests, but they will be modified to address the new tax landscape. But if the estate tax wanes, might the government re-emphasize income tax increases to raise revenues? If so, family partnerships and LLCs will have a different focus. Forward thinking taxpayers will lay that ground work now.

PP