

Notre Dame Tax and Estate Planning Institute – Tip #3 October 28-30 2020

Some planning ideas from several of the programs that will be featured on the upcoming virtual conference

To register <https://law.nd.edu/for-alumni/alumni-resources/tax-and-estate-planning-institute/>

Perspectives On Planning For Personal Property: Collectibles, Philanthropy, Auction Houses, Income Taxes, And The Next Generation

- Tangible Property considerations affect every estate.
- It is NOT as basic or simple to plan or administer as many clients think.
- Sentimental issues are critical – its not just legal drafting, its drafting to address human considerations.
- Issues of collections should begin while the client is alive. Clients should collect information on the provenance of their collection that a personal representative may not otherwise be able to find. Collections have unique issues e.g. ivory, gun collections, cultural history that a country of origin protects, confirm not on lists that suggest others own, etc.
- Storage.
- Insurance coverage is vital to address.

Perils and Benefits of Recording a Meeting with a Client

- Now that most meetings are web-based recording is simple and no cost. Many provide for no or low-cost transcripts.
- But the real issue is should you do this?
- If you record you may have to maintain that recording and it may be discoverable in the future. So be careful what you record and what you say.
- Be certain the participants are notified of the recording at the beginning and consent to it.
- Not everyone appears good in a recording. A “bad” recording could be fodder for problems in a will contest.
- If you are not a good note taker the recording and transcript can provide an actual record. Clients might like to receive a transcript to ponder options.

Remote Executions and the Vulnerable Client

- Vulnerable client is anyone who suffers from a physical or cognitive impairment, or is infirm, or generally easily influenced.
- Whatever you do under a temporary order should be ratified or redone after the emergency is over unless you live in a state that has a legislative fix that ratifies whatever was done under an emergency order.
- For a remote signing what is not observed on camera?
- Remote execution for a vulnerable client merits a review of options available for execution and re-execution in a traditional format whenever possible.