



Planning Your Estate

Where should you begin?

We usually take life for granted. Although death is a cold reality, who wants to think about it? Nevertheless, you owe it to yourself and your family to consider how your property will be divided at your death.

Other questions must be considered, too. Who will care for your minor children or aging parents? Will the family business be continued? Will your spouse be able to live comfortably on what you have left? Will death taxes consume your family's security?

All of these questions can be answered with an estate plan carefully drawn to fit your family's unique needs. Estate planning is for everyone, not just the elderly or rich. If lack of information, apathy, or procrastination keeps you from planning your estate, you have unconsciously made some important choices. Your family will have to live with them.

Couples with young children who fail to plan their estate have chosen to have a court decide who will raise their children. Parents in a family business who fail to plan their estate have chosen to leave their spouse with sometimes only a fraction of the estate they spent a lifetime building. You see, when you have no estate plan of your own, North Carolina law provides one for you. It is quite likely that the plan set out in state law is not at all what you want for your family.

People neglect to plan their estate because they "don't have time" or they think it's "too expensive." But when is time better spent than when protecting your family's future? As for the expense, the modest sum you invest now in professional assistance will seem insignificant next to the expense

your estate could incur in litigation, taxation, and red tape. Worse than the expense is the family quarreling and confusion that could occur because you died without an estate plan.

What is estate planning?

Estate planning is the process of developing a program for effective management, enjoyment, and disposition of your property at the least possible tax cost. Making a will is a crucial part, but it includes much more. Planning your estate means reviewing how you own your property, considering insurance needs, and examining your family business structure. This task can be less over whelming if you separate it into four basic steps:

- Initiate the discussion;
- Develop your objectives;
- Seek professional advice; and then
- Keep things updated.

Initiate the discussion

Many estate plans never get written because it is so difficult to bring up the subject of death. Adult children don't want their parents to think they are greedy or want to take over. Husbands and wives don't want to give the impression that they don't trust their spouses to look after them, and elderly parents often prefer not to think of old age and death at all. As one woman put it, "My father thinks that to make a will is calling it quits. After he draws it up, he may as well crawl away and die."

There is no easy way to begin a discussion on estate planning. One way is to

use this estate planning series as a springboard. Estate planning books, magazine articles, and seminars in your community also offer natural icebreakers. Often the bad experiences of a family in which someone died without a good plan will start the family thinking.

Once the topic has been approached, it should be easier to discuss concerns and goals. Tough choices often must be made, but the alternative is to abandon your right to decide. No one else can plan for your family like you can. Take a deep breath and begin.

List your objectives

Your family's goals are unique. And the goals of your family may be different from those of the individual.

Talk with your family and get an idea of their goals. Does your child expect to take over the family business? Do the other children feel apprehensive about being nudged out of the estate? Do your parents feel comfortable being named guardians of your minor children? Does the older spouse of a second marriage agree that your assets be distributed to your children from your first marriage? Does your spouse feel confident that he or she can manage the property after your death?

After you have a feel for your family's goals, sit down and list your individual goals as well. Rank your objectives in order of importance if they conflict. Use the checklist here as a guide. Once your goals are clear, your estate plan can be tailored to meet your particular needs.

Choose a professional advisor

An effective state plan has many components. Most people do not have time to develop the expertise needed to draw up and keep current a good estate plan. That is why you should consider a team of professionals to help you. Professionals such as a life insurance underwriter, an accountant or tax advisor, a trust officer, a financial planner, and an attorney are invaluable sources of information and advice. Life insurance underwriters or agents can review your insurance coverage and help you organize information for your attorney and tax advisor. The underwriter or agent will suggest ways to help you avoid liquidity (cash flow) problems upon your death. Many companies also suggest alternatives to avoid unnecessary death taxes.

Accountants or tax advisors are also knowledgeable of death taxes. They will help you figure the tax consequences of various types of transfers. Accountants or tax advisors can advise in business or property management, valuation of assets, and business continuation or sale.

Trust officers can suggest alternatives in choosing executors or setting up trusts. They also offer management and investment services. Financial planners review

OBJECTIVES FOR ESTATE PLANNING

- Provide security for surviving spouse.
- Relieve surviving spouse of management responsibilities.
- Provide management flexibility for surviving spouse.
- Provide security for both spouses after retirement.
- Retire at age _____.
- Provide security for an incapacitated heir.
- Keep business in the family.
- Provide educational opportunity for heirs.
- Assist heirs, including in-laws, to get started in business.
- Minimize estate and inheritance taxes on estate of first deceased spouse.
- Minimize estate and inheritance taxes on estates of both spouses.
- Nominate guardians, conservators, or trustees for minor children.
- Nominate guardian or draw up power of attorney in case of disability.
- Nominate personal representative of estate(s).
- Provide means of paying expenses of estate settlement, taxes, and other debts.
- Provide equitable (not necessarily equal) treatment of heirs.
- Transfer specific property to specific heirs.
- Make gifts to heirs and others during lifetime.
- Reduce income taxes through disposing of income property during life.
- Transfer property during life by installment sale.
- Provide a scholarship at a favorite university.
- Provide for charitable bequests to a favorite charity or organization.
- Prevent property from going to non-deserving heirs.
- Take full advantage of the marital deduction.
- Minimize the probate estate.
- Assure continuity of farm, ranch, or other business.
- Review current operation and ownership of farm, ranch, or other business.
- Other (add others here)

your entire financial situation and identify strategies to achieve your financial goals. They work with other professionals to develop your insurance, investment, retirement, and estate plan.

The attorney is a key member of the team. He or she coordinates the work and helps you evaluate the advice of the others. Final decisions about your estate plan are made with your attorney's confidential assistance. The attorney then draws up the legal documents required.

All of the professionals will need background information before they can help you plan. Call your professional advisor, and ask what information you should bring to the appointment. You will need to review your financial situation, listing assets and liabilities. Accurate

information about your net worth is particularly important for tax planning. The checklist titled, "What My Attorney Should Know" may help you make your list.

You also need to determine how your property is owned. Do you have a life estate or do you own property outright? Whose name is on the deed or bank account? This information is vital to determining how to legally transfer that property.

Before visiting your attorney, list the people you want as beneficiaries and personal representatives. Be sure of kinship status, full names (including nicknames and maiden names), and complete addresses. Consider how you want your estate distributed should you outlive your beneficiaries.

WHAT MY ATTORNEY SHOULD KNOW

Save time and money by having the necessary information in hand for that first visit to your attorney. The following checklist is a tally of information your attorney will need.

- _____ PERSONAL INFORMATION (family members, names, birth dates, addresses, occupations, social security numbers)
- _____ BANK ACCOUNT (name and location, exact name on accounts, number on each account)
- _____ STOCK AND BONDS (description, years purchased, number, exact name of owner, face value, cost)
- _____ LIFE INSURANCE (company, policy number, amount owned by husband, wife, joint, exact name of owner, insured, beneficiary on policy)
- _____ TRUST (type, location, trustee, who established, exact name of beneficiary, value, owned by whom)
- _____ NOTES, MORTGAGES AND ACCOUNT RECEIVABLES (description, year acquired, value, person who owes you)
- _____ REAL ESTATE (list type of property and acres, location, year acquired, cost, owned by, market value)
- _____ PERSONAL PROPERTY (list livestock, motor vehicles, machinery, crop inventory, home furnishings, jewelry, art, antiques, personal items; describe cost and value and who owns)
- _____ LIENS AGAINST PROPERTY (property mortgage, name of creditor, date due, remaining amount due from husband, wife, jointly)
- _____ MORTGAGES AND OTHER REAL ESTATE DEBTS (description, name of creditor, date due, and amount remaining to be paid by husband, wife, monthly, whether insured)
- _____ OTHER PERSONAL LIABILITIES (unsecured notes, insurance loans, notes endorsed, real estate taxes, personal property taxes, state taxes including income and inheritance, federal taxes including income, gifts, etc., unsettled claims, name of creditor, date due, amount remaining to be paid by husband, wife, jointly, and which debts are insured by credit life insurance.
- _____ RETIREMENT BENEFITS (pensions, profit sharing, deferred compensation, social security, annual benefits for husband and wife, amount invested, and death benefits)
- _____ OTHER FINANCIAL INFORMATION (income last year, current income, salary, retirement income, annuities, rents, interest, bonuses, dividends, trusts, capital gains, etc.)
- _____ WHERE ARE YOUR SPECIAL PAPERS KEPT? (Make a list and name exact location – husband and wife's will, deeds, insurance policies, stocks and bonds, financial statements, income tax returns for last five years, gift tax returns, contracts, partnerships and corporation agreements, profit sharing plan, divorce decrees, pre- and post-nuptial agreements, employment contract, pension benefits.

List adapted from: *What My Lawyer Should Know* by Neil E. Harl, Attorney at Law and Professor of Economics, Iowa State University

The important thing to remember is that your estate plan will be only as complete as the information you give your team of professionals. You can save time and money by taking stock of your situation and compiling pertinent information before your appointment.

Keep things updated

Suppose you drew up your will and “put things in order” several years ago. How often should you update your estate plan? Of course, you may change your will whenever you wish.

You should review your will each time your life situation changes significantly. For example, if you marry or

divorce after you have drawn up your will, you need to change your estate plan to reflect your new status. Children born after the will should be included in a new will. The birth of grandchildren may warrant a will update. A major change in your financial situation mandates a checkup on an estate plan especially if it raises tax questions. Finally, each time the tax laws change significantly you should update your estate plan to be sure you are taking full advantage of tax saving techniques.

Your professional team will be glad to help you re-view and modify your estate plan periodically to keep it current.

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If you have specific questions on this issue, seek professional advice. If you need an attorney, you may call the North Carolina Lawyer Referral Service, a non-profit public service project of the North Carolina Bar Association, toll-free: 1.800.662.7660 (Wake County residents call: 828.1054).

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