

ESTATE PLANNING DURING TOUGH ECONOMIC TIMES:

Why Estate Planning is One Corner You Cannot Afford to Cut

BY GARY ALTMAN, ESQ.

The (Ultimate) Elephant in the Room

When it comes to the “D” word - “Death” – many people are happy to live in blissful denial: “I’m too young to think about it.” “My parents are really fit for their age.” “I am a very healthy person.” - There are just a few of the explanations some people give as to why they don’t need to concern themselves with estate planning. Most of the time, it boils down to this: It’s uncomfortable to think about, taboo to discuss and intimidating to plan for. So much so that 60% of Americans will die without having even prepared a will, leaving estates to be divided and taxed according to predetermined federal and state laws, likely in ways we didn’t intend.

In Good Times and in Bad

What else keeps people from protecting the future of their estates? In a down economy, it should be no surprise that cost is a factor for everything. As a seasoned estate planning attorney who has been around long enough to have seen every worst case scenario imaginable, I ask you to strongly consider this:

1. The financial cost of not planning far outweighs the financial cost of planning. Regardless of the size of your assets, having no estate plan (or an outdated one) can cost you – big time! Avoidable taxes, penalties, fees and court appearances can end up costing your beneficiaries anywhere from thousands to millions. Having a diligent, experienced estate planning attorney working on your behalf is worth its weight in gold.

And don’t be fooled by those “Do-It-Yourself” type estate planning web sites or programs which claim to help you write your own will. Drafting your own will or trust is very bad news! It may not account for changing laws, state-specific laws and it most certainly can’t give you personalized recommendations based on your specific wishes and needs. A simple typo - an incorrect word or clause - can dramatically transform the legality and meaning of the will, negating the very purpose of

its creation. Any perceived savings will almost assuredly be wiped out and then some by negligence and by then it may be too late!

2. The emotional cost of not planning far outweighs the emotional cost of planning. A simple example is very illustrative. A young man, who is married with two young children, dies owning a house in his own name. Upon his death, one-half (½) of the house goes to his wife and one-half (½) goes to his young children. Before this happens, his estate has to go through the probate process. Moreover, because his children are minors, his wife has to be appointed their guardian by a court and the court will control the funds the minors are receiving. Instead, if the young man had created a revocable trust, all of this could have been avoided. In other situations, you’ll see families ripped apart as they argue over money, decisions on life support, final wishes and family heirlooms. . . . Look at the drama surrounding recent celebrity deaths. Now imagine that taking place in your own family. . . . It’s horrible and, in the right attorney’s hands, avoidable.

3. Estate planning isn’t just about how you want your assets distributed after you die. It’s also about deciding how much you want to give away while you’re still alive. If you plan carefully - so you don’t outlive your assets - giving allows you to reduce your taxable estate and provide advance help to your beneficiaries. Paying for someone’s education, gifting friends, relatives or charitable organizations. . . all ways we can see our assets at work while we are still alive.

The Bottom Line?

Well thought out and drafted estate planning is our insurance against the unthinkable, but it’s also the key to building the legacy you wish to leave behind. The financial and emotional cost of not planning is painful and long-lasting. As I often say, “Estate planning is not something that you can afford to put off until tomorrow.”

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