

Estate Planning For Young Families: It's not something you can afford to put off until *tomorrow*.

BY GARY ALTMAN, ESQ.

"Once upon a time, in a perfect world far, far away... everyone had their dream job, all newborns slept through the night, and estate planning was only for the Gates, Rockefellers and Trumps of the world..."

Young adults and families make many significant decisions in those early years. Continuing education, finding jobs, paying off debt, planning weddings, buying homes, investing money, having children, helping parents and grandparents... it can be exciting and overwhelming at the same time.

In the midst of all of these major life events, estate planning often gets put on the back burner. Many people think that they are too young and healthy to need to do any estate planning *right now*. Others might procrastinate due to cost or because they don't feel their assets are significant enough to require protection.

Of course, no one is expecting to die while their family is young, but the reality is that even a healthy, young adult can be taken suddenly by an accident, illness or random act of violence. Planning for such a possibility is being prudent and responsible. It shows your family how much you care.

The biggest myth in estate planning is that you have to be ultra wealthy for it to matter. I urge you; *this is flawed in every possible way*. Regardless of the size or value of your estate, peace of mind only comes in having a thoughtfully and professionally prepared estate plan.

Here are the estate planning building blocks for young families:

Will

Plain and simple, a will is a written document with instructions for the distribution of an individual's assets after death. Scribbling something down on a piece of paper and hiding it in your sock drawer? That's one way to do it. Playing attorney for a day with a "Do-It-Yourself" kit like the ones being sold on TV or an office supply store? That's another. Unfortunately, both of these approaches are nothing short of a disaster. Incomplete, incorrect or outdated wills are about as good as not having one at all. Whether you've got a large estate or a small one, the only surefire way to ensure that your wishes are honored is to have a legitimate, professionally prepared, current will that has been witnessed and stored properly for safekeeping.

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Asset Allocation

Most married couples want their assets to go to the surviving spouse if one of them dies. There are some exceptions to this. Part of the estate planning process is to discuss who receives assets, when assets are received, and how the assets are received. Different estate planning tools, such as trusts, can ensure that assets are allocated accordingly, with contingency plans in place to account for all possible scenarios.

Executor / Trustee for Your Estate

This person will be responsible for handling your final financial affairs – locating and valuing assets, locating and paying bills, distributing assets, hiring an attorney and other advisors – so it should be someone who is trustworthy, willing, able, knows you and will carry out your wishes.

Guardianship

Whether you have many assets or not, it is essential for families with children to clearly define who should care for your children should you and the other parent become unable to do so. A court will normally honor the wishes of the parent to determine who will become their legal guardian(s) for both the long and short term. That said, if these decisions are not formally put into writing (again with the assistance of an experienced estate planner), you have left it up to a judge to make decisions for you, sometimes after a messy and costly court fight.

Advanced Health Care Directive

Think estate planning only has to do with death? Think again! Advanced Health Care Directives are instructions specifying what actions should be taken for your health in the event that you are no longer able to make those decisions due to illness or incapacity. A "Living Will" is one form of an Advanced Health Care Directive. It records your wishes regarding various types of medical treatments, such as resuscitation, life support, artificial feedings and organ donation. A "Medical Power of Attorney" (also known as a "Health Care Proxy") names the specific individual(s) you appoint make the aforementioned medical decisions on your behalf – again, if and only if, you become unable to do so because of illness, injury or disability. HIPPA authorizations will give your doctors permission to discuss your medical situation with others (parents, siblings and close friends). Disability income insurance should also be considered because life insurance does not pay at disability. I encourage my clients to have all of the aforementioned documents in place to provide the most comprehensive guidance and spare family

members (who may or may not agree on what to do) from having to make medical and/or end-of-life decisions for you.

Law Changes & State Taxes

Let's not forget, laws change. While your estate might qualify as off the hook on a federal level, you may still be subject to state estate taxes. Many states, such as Maryland, as well as the District of Columbia have moved away from the federal exemption level and exclude only up to \$1,000,000 in assets. Virginia does not currently have an estate tax, but, again, this can change. (*Note that even if you live in Virginia, but own property, such as a vacation home, in a state that imposes estate taxes, you could be subject to the estate taxes of that state.*) Furthermore, most individuals don't realize that state laws are very specific about what can and can't be in a will, trust, or medical or financial power of attorney. They may also have specific guidelines on who can and can't be a witness to a signing of a will or trust, and what formalities or protocols must be observed when signing.

Trusts

When it comes to safeguarding your assets, shielding them against hefty estate taxes and providing for your children from youth into adulthood, creating a trust is the only way to go. There are various kinds of trusts and your estate planning attorney will help you decide which one will do your assets and your wishes the most justice. Without such a tool in place, assets are more easily subject not only to taxes, but to abuse as well. *The property in the trust is managed by a trustee – someone you appoint.* Usually, this is someone who's good at handling money. It can even be a parent (although this may not be a good idea tax-wise) or a trust company. Having a trustee in charge means that the beneficiary can't squander the property. After all, most people will agree that a 30 year old is probably going to be more financially responsible than an 18 year old. These are the types of safeguards you can put into place by using a trust.

Special Needs Planning

In cases of physical and mental disabilities, Autism, Down Syndrome, and other disorders, a child may always need help managing their personal care and/or finances. In the past, many practitioners focused exclusively on preserving public programs and benefits for their care. However, many public benefits programs are inadequate and need to be supplemented with other, more reliable, privatized resources. Estate planning tools, such as Supplemental Needs Trusts, can help families manage private funds while also preserving one's eligibility for public benefits.

Life Insurance

Life insurance can provide needed funds for survivors upon the death of the insured. For most families, the need for life insurance is greatest early in life. Children are young and the financial burden of supporting the family are the greatest and create the need for life insurance. Determining how your life insurance policy fits into your estate planning is crucial. Incomes need to be replaced, children need to be cared for – even paying for college is a life insurance consideration. As with all of your financial interests, naming life

insurance beneficiaries and establishing exactly how you intend any distributions to be managed is critical. Mistakes are costly and next to impossible to reverse after death.

Beneficiary Designations

One critically important thing that many people forget to do is to make sure that the beneficiary of their life insurance policies and retirement plans is consistent with their estate planning documents. *It is not enough just to provide instructions for the distribution of your assets in a Will or Trust.* If the beneficiary of life insurance policies and retirement plans is pointed towards your estate or Trust, then the payout of those policies and plans will not adhere to the instructions provided for in the Will or Trust.

Digital Assets

Given the wealth of information we have housed on our computers and the Internet today, smart estate planning includes addressing how to handle digital assets in the event of death or incapacity. For example, what would happen to an e-mail account or a personal or business web site? Were there online financial or other accounts? What about passwords? Establishing an inventory of your "digital estate", designating someone to manage it, providing for access to it and providing instructions on how you want it managed should all be considered and documented within your estate plan.

The Bottom Line

Estate planning will require you to think about family relationships and some decisions may be difficult. But an experienced estate planning attorney will be able to help you through the process, provide valuable guidance and make sure your plan will do what you want when it is needed. If finances are tight, as they usually are for young families, start with the most essential legal documents and term life insurance, then update and upgrade your plan as your financial situation improves. The most important thing is not to put this off. Once your plan is in place, you will have peace of mind that your family will be protected if something should happen to you.

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