

ESTATE PLANNING DO'S & DON'TS:

This handout is to highlight many common problems we have seen in our years of practice. While this list may not apply to everyone, the following may help create an efficient estate plan that will avoid common mistakes.

DO:

- ✓ **Plan ahead:** Your death and/or incapacity may not be for a very long time, but the present is the time to prepare.
- ✓ **Follow through with your plans:** Starting an estate plan is the first step, but make sure you understand and follow through with it.
- ✓ **Have a good relationship with your attorney:** This allows your attorney to customize your plan through providing all necessary information, including the amount of your assets and state of your heirs.
- ✓ **Have your attorney change your Will or Trust:** Statutory rules must be strictly followed in all changes. Unless done correctly, additions and deletions will have no effect despite your known intent.
- ✓ **Review your assets and estate plan frequently:** Investments, a beneficiary's life situation (divorce, lawsuit, disability, etc.) and the laws all can change, which may require changes to your plan.
- ✓ **Know who the beneficiaries are on your life insurance, annuities, IRAs and other policies:** Proper estate planning involves knowing where your probate and non-probate assets will be distributed upon your death, which can dramatically effect an estate.
- ✓ **Consider the cost of Long Term Care:** Long term care can quickly evaporate a lifetime of savings. Consider purchasing Long Term Care Insurance when you are younger as the premiums will be relatively inexpensive. Statistics show that about 43% of the population over age sixty-five will spend some time in a nursing home.
- ✓ **Promote family harmony:** Proper planning can help your family avoid discord or jealousy, which can last for years after your death.
- ✓ **Properly direct specific items:** Your heirs may argue over specific personal items, which could prove detrimental to your family and seriously delay the distribution process. Specifying the distribution of personal property may avoid acrimony.
- ✓ **Appoint a trustworthy Personal Representative, Trustee or Power of Attorney:** These agents will be in control of your assets upon your death or incapacity. You should have no doubt that these selected individuals will diligently and honestly attend to your estate.

- ✓ **Appoint a qualified Personal Representative and Power of Attorney:** Family members are not always the best agents. Financial expertise should be considered as well as geographical location. An out-of-state Personal Representative may not properly handle your estate if they have only a short amount of time to do so.
- ✓ **Talk with your Personal Representative, Trustee or Power of Attorney about the burdens your plans involve:** Your agents must be willing to take over control of your assets upon your death or incapacity and know the physical and emotional burdens involved.
- ✓ **Properly handle safe deposit boxes:** Upon your death or incapacity, your heirs will need to have access to your box. Talk to your bank to make sure the proper people will.
- ✓ **Realize that your will does not cover all assets:** Your will generally controls probated assets only. Probate assets are generally assets that are in your own, individual name.
- ✓ **Create a revocable living trust** - As the general rule, this is an excellent way to save time and money. While not everyone needs a living trust, this is the best option for many.
- ✓ **Create Durable Powers of Attorney, Living Wills and a Health Care Surrogate:** This is the first step to preparing for incapacity and everyone should have these documents.
- ✓ **Leave funeral instructions-** You can make the decision of where you would want your funeral to occur, the costs involved and such simple things as the clothes you would want to wear, which can save your family a great deal of time and work in an emotional time.

DO NOT:

- ✓ **Listen to your friends:** There is no better way to get into trouble in estate planning than listening to your friends. They are not specialists in the area, do not know your situation and often give terrible advice on a wide variety of issues. If you have questions, please talk to your attorney.
- ✓ **Do not give heirs only \$1.00:** This can create unforeseen complications that completely omitting him or her will avoid.
- ✓ **Procrastinate:** You cannot plan your death or incapacity, so you need to do your planning before you are rushed or you are unable to.
- ✓ **Create jointly held property:** This is an improper way to avoid probate. By giving away interests in your property now, you are opening your hard-earned assets to their creditors and their claims of interest, as well as possibly losing favorable tax status upon your death.

As you can see, there are many potential problems that can easily be avoided. Please do not hesitate to contact us if we can help further your estate planning needs.

THIS DOCUMENT IS NOT INTENDED TO PROVIDE LEGAL ADVICE AND SHOULD NOT BE RELIED UPON AS SUCH.