

Three Key Elements of Smart Estate Planning

It's likely that you expect to use your assets to give your family a good life in the here and now—things like travel and college tuition. But have you thought nearly as much about positioning your assets so they're ready and able to help the people you love *after* you're gone?

Even if you have made some headway in this area, your plan for your estate could be a little—perhaps a lot—out of date. If that describes your situation, don't panic. Chances are, you can get on track by focusing on three main areas of estate planning: wills, trusts and fiduciaries.

The all-important will

A will should be the basic foundation of every estate plan—the starting point for a well-conceived strategy to transfer assets at death.

A will identifies precisely what you want to have happen to your assets and estate. Dying without a will means you have decided that the state knows what's best for you and your family. Having no will also can make the settling of your estate difficult, costly and highly publicized.

We strongly believe the benefits of writing a will far outweigh the drawbacks.

Advantages:

- You decide on the disposition of your hard-earned wealth.
- Estate taxes may be mitigated—especially when the will is part of a broader estate plan.
- You specify who the fiduciaries will be.

Disadvantages:

- You have to accept that one day—far in the future—you just might die.
- There is a legal cost associated with writing a will and with estate planning.

Trusts

A typical second component of a smart estate plan is a trust. A trust lets you transfer title of your assets to trustees for the benefit of the people you want to take care of—your selected beneficiaries, such as family members. The trustee will carry out your wishes on behalf of those beneficiaries.

Trusts can be used in a variety of ways to transfer wealth and determine how it will be deployed. Trusts also can be useful when it comes to wealth protection strategies.

Broadly speaking, there are two types of trusts: living (established while you are alive) and testamentary (created by your will after you've passed). Additionally, there are two fundamental trust structures.

- A revocable trust allows you to retain full control over the assets in the trust. You can add or take out money as well as change the terms of the trust.
- An irrevocable trust is one to which you cannot make any changes.

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SELECTING THE RIGHT HELP

The third area is fiduciaries. A fiduciary is a person or organization that is ethically and legally bound to act in the best interests of another person and to oversee that person's finances.

Example: Regarding your will, you need to name an executor. When it comes to trusts, someone (or some institution) has to be the trustee. And if you have children who are minors, it is imperative that you name guardians for them—people who will be willing and able to take care of your children if anything were to happen to you and your spouse.

1. Executors and trustees. An executor of your will has a number of responsibilities, including:

- Collecting and organizing your assets
- Paying debts you owe
- Acting as a collection agency for money due to you
- Handling all necessary tax matters
- Ensuring that assets are distributed to beneficiaries

When you set up a trust, you are specifying how you want a situation managed in the future. It is the responsibility of the trustee to make sure that your wishes are carried out. The explicit responsibilities of the trustee vary depending on the nature of the trust you have set up, but may include the following:

- Ensuring the proper tax forms are filed correctly and on time
- Making investment decisions
- Working with beneficiaries

2. Guardians. There are three key criteria that you need to consider in making this decision:

- Will the guardian(s) love your children?
- Are the guardian(s) capable of doing a good job raising your children?
- Do you think the guardian(s) are going to raise your children with the same morals and values that you have?

Sometimes the decision about who should be guardian of your children is obvious. Example: Your sister-in-law wants the responsibility, and you are confident she will do an excellent job (as she has the same views on raising children that you do). That said, the “right” person or couple doesn't always exist. Keep in mind that your decisions are not necessarily set in stone. As circumstances change, you should adjust your decisions accordingly.

Time for an update?

It's extremely common to review an existing estate plan and find that it's been five years or longer since it was created. That's more than enough time for changes in tax laws, your personal situation or your family to have made that plan outdated—and therefore out of touch with your wishes.

We recommend that your estate plan be reviewed every year or two. The review should be conducted by a wealth manager or tax professional who has estate planning experience and expertise—but who also takes the time to learn what's changed since you put your solutions in place, assess how those changes might impact your strategy, and make recommendations for getting your solutions current and in accordance with your wishes.

It's this combination of technical ability in estate planning coupled with a deep interest in truly getting to know you and your situation that we find tends to lead to the creation of the most effective estate plans.

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