

ESTATE PLANNING BASICS

By Kevin Lanigan, Carlson Estate Planning

There are a number of good reasons to consider putting together an estate plan or recommending estate planning to your friends and family. This is especially important if you live in Minnesota and your assets, including your home, exceed \$1 million. That's when Minnesota's estate tax kicks in. Fewer people, those who have more than \$5 million estates, will also be subject to federal estate taxes. An estate plan allows you to direct how your assets will pass upon your death and who will implement your plan. It will also help you save on estate taxes. Most importantly, it provides for an easier transition upon your death because your intentions and directions are set forth in the documents you put in place.

WILLS

Your estate plan should start with a will. This document dictates who should inherit your assets, names a guardian for your minor children and names an executor to manage your estate. If you do not have a will, you are leaving some very important issues to chance. Without a will, your assets will be transferred under the laws of intestacy, which may differ from the way you intend to pass along your assets. The decision will be left to a court-appointed estate administrator or guardian and not the person you would have chosen to distribute your assets.

POWERS-OF-ATTORNEY

A power-of-attorney is a document in which you appoint a person you trust to take over your financial and legal decisions in the event that you are unable to do so for yourself. If you become incapacitated and do not have a power-of-attorney in place, your family may have to initiate an expensive and time-consuming procedure to have someone appointed as your guardian. Having a power-of-attorney allows you to personally name the person you wish to pay your bills, manage your investments and make all other financial decisions on your behalf.

HEALTH CARE DIRECTIVE (LIVING WILL)

You also need to name a health care agent to make health care decisions on your behalf. This document names the person you wish to manage your health care and, should you become incapacitated, clearly outlines your wishes for the types of medical treatment you wish to have administered as well as the types of treatments you would prefer not to have administered toward the end of your life. If you become incapacitated and do not have a Healthcare Directive, your family may have to apply for guardianship or conservatorship in order to make medical decisions on your behalf. By providing medical providers and your health care agent with clear instructions as to your wishes, you will be able to take control of your treatment and avoid potential disputes between health care providers and family members.

TRUSTS

Trusts can be used to save an estate – and your heirs – a significant amount of money in terms of tax planning. In Minnesota, the state estate tax is imposed on estates in excess of \$1 million unless it passes to a charity or spouse. If each person in a marriage owns \$1 million in assets and one spouse passes away, leaving everything to the surviving spouse, there will be no Minnesota estate tax at the time of the first spouse's death. However, when the surviving spouse passes away, assuming they have \$2 million in assets, they will be liable for approximately \$100,000 in Minnesota estate taxes. If the first spouse had utilized his or her estate tax exemption by leaving \$1 million in a properly drafted credit shelter trust for the second spouse's benefit, there would be no Minnesota estate tax due upon the surviving spouse's death.

THE LAST STEP

After you draft these documents, it is essential that you make your loved ones aware that you have an estate plan in place. It is also important to ensure that a trusted family member or friend knows where these documents are kept. You will also want to ensure that a trusted family member or friend has the contact information for your attorney.