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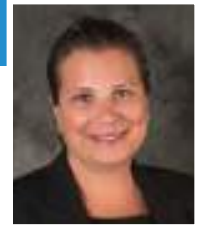
A Resource for Members and the Community in which they Live

As the President of the Estate Planning Council of the Emerald Coast, it is my pleasure to present the second annual Estate Planning Magazine. I would like to extend my gratitude to our members who worked so hard to fill this magazine with practical information that the public can use and understand. I would also like to say Thank You to the Northwest Florida Daily News for their support and assistance in the design, printing and distribution of this magazine.

What is the Estate Planning Council? Put simply, it is a group of professionals who work in the estate planning industry. Council members include attorneys, certified public accountants, financial advisors and trust officers. These are the people who should comprise your team when you create your own estate plan. Our membership meets throughout the year, engaging speakers from all over the nation to come talk to us about the cutting edge issues that define our industry. Not only do we keep abreast of current developments, but we get to know the other professionals who work in our industry. Estate planning clients often have multiple advisors, and it is extremely important that these advisors cooperate and work together in meeting the needs of their clients. The Estate Planning Council, however, does more than providing continuing education and networking opportunities for its members; the Council also embraces its mission to inform the public about the importance of estate planning. October 21-27, 2019 is National Estate Planning Week. Last year, we celebrated by holding our inaugural "Estate Planning Day" at the Niceville campus of Northwest Florida State College. The council presented lectures on four estate planning topics. Each lecture was presented by a panel of three local estate planning professionals. Many more of our members were in attendance to answer general questions. The event was well attended and we received many positive comments. It is with great pleasure that I announce the second annual Estate Planning Day to be held on October 23, 2019, at the Niceville campus of Northwest Florida State College. We will once again have panels of local professionals discussing relevant issues that you need to know in the modern estate planning environment. Given the quality of our membership and the lessons we learned last year, I look forward to an even better event this year.

Estate Planning Day is intended to benefit the public, not the members of the Estate Planning Council. It is an educational event. There is no fee to attend and you do not have to register in advance. We hope you enjoy the magazine, and we look forward to seeing you at Estate Planning Day!

Kevin M. Helmich, Esq.,
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Remember Your Beneficiary Designation

BY LUKE SMITH

Do you have a retirement account, life insurance policy or other assets that ask you to designate a beneficiary? If so, have you assigned a beneficiary designation, or have you reviewed your beneficiary designation lately? Does your beneficiary designation still align with your estate plan and does it still fit your desires?

There are many horror stories where an unintended beneficiary was the recipient of a retirement account or there was no designation at all. Naming a beneficiary is crucial to ensuring that your desired beneficiary will receive the assets that you are leaving behind. The responsibility of naming the beneficiary falls solely on the account owner and a will does not always control who inherits your assets. Avoiding costly mistakes are critical, the following are four important items to take into consideration when naming a beneficiary.

Review Your Beneficiary with Attorney and Advisors

If you have an estate plan, you should include your legal and professional advisors to ensure the designated beneficiaries are consistent with your overall plan. Estate planning can be an overwhelming process, which is why you should always consult with a professional. Keeping your advisors in the loop with any asset beneficiary designation is necessary to make sure your overall plan does not contradict or negate your wishes.



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NAMING A BENEFICIARY IS CRUCIAL TO ENSURING THAT YOUR DESIRED BENEFICIARY WILL RECEIVE THE ASSETS THAT YOU ARE LEAVING BEHIND.

Name a Beneficiary

There are several reasons why someone has not named a designated beneficiary, such as overwhelmed by the many forms to fill out or simply never got around to it. Regardless of the reason, it can be a costly and emotional error. If your life insurance policy does not have a beneficiary, the death benefit will be paid to your estate. Some might think that this is not a bad thing, as your will spells out who is to receive your assets. However, the result is that now your estate will have to go through probate, which can be a costly and lengthy process. An applicable asset that does not have a named beneficiary can result in unintended and costly tax consequences. If there is not a beneficiary, the asset account will have to be paid to your estate. The result is that your account must be paid out over the next five years and does not receive the extension of time to defer distributions to the life expectancy of the beneficiary.

Special Circumstances

Not all individuals should be considered as designated beneficiaries, i.e. minor children, individuals with special needs or troubled pasts. Regardless of the situation maybe, you should be very cautious when it comes to naming a beneficiary. Minor children are not legally competent, so the courts will have to appoint someone to manage the proceeds until the minor reaches the age of 18. Individuals with special needs could lose government benefits if they were to receive inheritance directly. In both instances, a trust can be named beneficiary so that the funds can be managed appropriately and on your terms for the beneficiary of the trust.

Update Your Beneficiaries Over Time

Life is uncertain, that is certain. When your circumstances change over the course of your life, you need to keep your designated beneficiaries up to date. When your estate plan changes, as should your beneficiaries. The most common mistake when it comes to designated beneficiaries is not making a change. There are countless stories of an ex-spouse still being the named beneficiary and are quite surprised to find out they are the designated beneficiary.

COMMUNICATION IS THE KEY TO ANY ESTATE PLAN

BY MARK DUTRAM, CPWA®, CFP®, AEP®

You don't have to search very hard to find a story of a family whose estate plan did not go according to their wishes. Sadly, this is even true for those people who have prepared what they considered an effective estate plan. Many of us have complicated families that require special planning to prepare for irresponsible members, complicated or multiple marriages, special needs, cognitive or emotional incapacity, to name a few. Couple that with the fact that life continues to happen, and so many things have changed since we created our estate plan years ago. Our goal in estate planning is to

not only pass on our material possessions, but to pass on our stories, our values and our beliefs to the ones we love. And we want to do this in the most simplistic and stress-free way possible that is free from conflict. Without the proper communication this is virtually impossible to accomplish even in the closest families. Being in this business for over 25 years, I have witnessed families, despite being historically close, become fractured and many of the descendants have stopped speaking to each other altogether.

Do they Know Your Intentions

The imagination is a powerful thing. When we don't know a person's true intentions, we make up a story and convince ourselves that our version is true. Unfortunately, the story we make up about a grantor's intentions is often not the one that was intended, and this miscommunication can dismantle families, and cause life-long emotional wounds.

According to a recent study, only 30 percent of people take the time to establish an estate plan. Of these plans, 70 percent fail to accomplish the grantor's true intentions. With the amount of wealth that is expected to transfer over the next 20 years, this can translate into a tragic amount of families with unnecessary conflicts and emotional scarring.

The research indicates that while some of the failures of estate planning are related to an inability of the beneficiaries to manage their wealth properly, the majority of the failures occur as grantor's don't develop a plan and process to accurately communicate their true intentions. The goal of estate planning should no longer be focused exclusively on the formulation of a legal document. Grantor's should have the opportunity to accurately and fully communicate their true intentions to those they leave behind.

Tough Conversations

You may be hesitant to have a conversation with beneficiaries

due to a reluctance to talk about finances. Others avoid it because they fear that sharing their wishes with beneficiaries will cause conflict. As a result, families are often set on a path of destruction as beneficiaries are left to make up stories about what was truly intended in the absence of information from the grantor.

The Family Meeting

When appropriate, grantors should invite their family and trusted advisers to a family meeting. Ideally, a meeting with the grantor, family members, attorney, and financial planner can take place so the grantor can share their intentions. We recommend that estate planning attorneys and/or financial planners facilitate a family meeting well before the transfer event. The family meeting can start with the grantors expressing their intentions. In other words, they start the meeting with why they came to see an estate planning attorney or financial planner in the first place, expressing the "why" of the estate plan. This "why" builds the foundation for the entire estate plan. After the intentions are made clear by the grantor, the attorney can explain how the estate planning legal documentation supports the client's intentions. Family members are then able to ask questions of the grantor to seek clarity. When appropriate, they may even have the opportunity to express appreciation or even frustration with the grantor.

Success is when you not only pass your possessions on to your loved ones, but that they continue to share your stories and values as they remember you in a positive light.

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Naming a Trust as the Beneficiary of your IRA – Is an Accumulation or a Conduit Trust Right for You?



BY KEVIN M. HELMICH, ESQ.

Naming a trust as a beneficiary of an IRA is quite complicated. If you do it wrong, you can trigger total distribution of the retirement account within 5 years of the date of death. This would accelerate the recognition of income on the retirement account, and can greatly diminish the efficient of the retirement account from an income tax perspective.

There are two different types of trusts that can meet the rules regarding qualified beneficiaries of a retirement account. One type of trust is an “Accumulation Trust”. The other is a “Conduit Trust”. With an Accumulation Trust, the trust itself qualifies as the beneficiary. This allows the creator of the trust to control the timing and amount of distributions from the trust to the beneficiaries. To qualify as an Accumulation Trust, however, all beneficiaries of the trust must be qualified beneficiaries. For example, let’s say a trust was established for a child’s benefit. The trust would be distributed outright to the child when the child reached 30 years of age. If the child died prior to reaching 30, the trust would pass to the child’s descendants. If the child had no descendants, then the trust would pass to the grantor’s favorite charity. This is a fairly standard type of distributive scheme. Such a trust would trigger accelerated distributions if it was named as the beneficiary of a retirement account. Charities do not meet the requirements of a qualified beneficiary because they do not have a life expectancy. An Accumulation Trust pays out over the life expectancy of the eldest trust beneficiary. If a charity is a potential beneficiary of a trust, and given that a charity doesn’t have a life expectancy, the entire trust would be

disqualified as an Accumulation Trust.

As stated above, an alternative to an Accumulation Trust is a Conduit Trust. A Conduit Trust is aptly named, because the trust acts merely as a conduit through to the beneficiary with regards to distribution from a retirement account. To qualify as a Conduit Trust, the trust must mandate that required minimum distributions (“RMD’s”) from a retirement account are paid out to the income beneficiary of the trust. If the RMD exceeds what the creator of the trust wishes to be distributed to the beneficiary, the RMD must nevertheless be distributed. Additionally, Conduit Trusts do not allow income to be “sprayed” among multiple beneficiaries. A Conduit Trust can greatly limit the flexibility and control of the creator of the trust in crafting a distributive scheme.

As with so many areas of the law, whether to name a trust as a beneficiary of a retirement account and what type of trust to use if you do so involves choosing among several different alternatives. One alternative is not necessarily better than another; it is just different. In order to make an intelligent selection from the available alternatives, you need to speak with a qualified professional who is able to explain the implications of each alternative as they relate to your particular situation.

HAVE YOU PLANNED FOR LONG-TERM CARE?

If you are fortunate, you will retain your physical and mental capacities throughout your life and can always live independently. But there are no guarantees for any of us. If you ever require some form of long-term care, will you be prepared? So what is the risk of needing long-term care services? According to the Department of Health & Human Services, about 40% of individuals over age 65 receive some form of paid in-home care, with an average care period lasting less than one year. However, about one-third of the population receives care in a nursing home: Of those individuals, about half stay less than one year, 30% stay between one and three years, and 20% stay longer than five years. And, unfortunately, this care can be expensive. For example, it costs \$97,500 per year, on average, for a private room in a nursing home, according to the 2017 Cost of Care Survey produced by Genworth, an insurance company. In some major metropolitan areas, the cost is much higher. Furthermore, Medicare typically pays only a small percentage of these expenses.

So, how do you protect yourself against these potentially catastrophic costs? Essentially, you have four options:

SELF-INSURE

You can try to build enough financial assets to cover the costs of a long-term care event. However, you would need to accumulate an extremely large sum to fully protect yourself, and you'd be diverting assets that could be used to help fund your retirement.

LONG-TERM CARE INSURANCE

A traditional long-term care (LTC) insurance policy will pay for qualified long-term care costs. The younger you are when you purchase your policy, the lower your annual premiums are likely to be. Keep in mind, though, that a basic LTC policy offers no death benefit or cash value – your premiums are only paying for a nursing home stay, home health care or other type of long-term care service. (Also, even a good LTC policy will include a waiting period before the insurance kicks in and a maximum amount of coverage, such as three years.)

HYBRID/LINKED BENEFIT INSURANCE

Because of some concerns about paying for insurance but never needing care with traditional long-term care insurance, this type of insurance provides a death benefit plus long-term care coverage. You can accelerate the death benefit to help pay for long-term care costs, and you can

also choose to create an additional pool for these costs after the death benefit has been exhausted. But if you don't need long-term care, you still have the life insurance death benefit. Due to the death benefit, your premiums will be higher than those of a traditional long-term care policy.

LIFE INSURANCE WITH LONG-TERM CARE/ CHRONIC ILLNESS RIDER

By choosing a permanent life insurance policy with this rider, you can accelerate all or part of the death benefit to pay for long-term care costs. (Your death benefit will then be reduced.) This option generally provides more flexibility in paying premiums than a hybrid policy, which may require a larger dollar commitment. Similar to hybrid, you still have the life insurance benefit if you don't need care. Which option is best for you? There's no one "right" answer for everyone, but a financial professional can help you choose the method that's most appropriate for your situation. And from an economic standpoint – and possibly an emotional one, too – you may be better off by taking action sooner, rather than later.

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THE TIME IS NOW!

BY HUBERT A. ROSS
CPWA, CFP, CHFC, AEP

How many times have
you heard someone
talking about the family
member or neighbor
who died without a will,
and thought, that could
have been me? Or heard
the story of the person
critically injured in an
accident who could
no longer speak for
themselves?

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Every day people become incapacitated or die unexpectedly. The causes vary from accidents, illness, natural disasters to homicides. What is common is the outcome; family and friends forced to make very important decisions in the midst of a tragedy with little guidance. It would be convenient if we knew when we were going to die, or become incapacitated, and had time to plan accordingly, but we don't. What we can do is prepare now; to lessen the burden on our loved ones and ensure our wishes are known and carried out when the unexpected happens.

Consider for a minute the people senselessly murdered in mass shootings in El Paso and Dayton. How many of the adults had estate plans? How many of the critically injured and incapacitated, had medical powers of attorney and living wills? Who can legally speak for them regarding life sustaining medical care?

Let's face it, it's easy to postpone putting an estate plan in place; after all there are so many other things competing for our time and nothing bad is going to happen today (we hope). But don't, the next auto accident, fatal heart attack, deadly tornado or mass shooting could happen at any minute. Do your loved ones a favor and take time to decide who you want to make important decisions for you should you become disabled and can't make them yourself. Don't leave it to someone else to decide who will care for your minor children if you can't. And don't force a court or grieving heirs to decide how your assets are distributed; it's not their stuff and they'll undoubtedly get it wrong.

Don't delay, take action today! Your plan does not have to be overly complicated or expensive; it just needs to reflect your wishes. Establishing and maintaining an estate plan allows you to speak for yourself and demonstrates your care and concern for loved ones.

Getting started is easy; you don't need to be an expert. Well qualified estate planning professionals are ready to help. The clock is ticking...the time is now!



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Please consult your legal advisor regarding your specific situation.



The Value of a Professional Trustee

BY CYNTHIA VILLANOVA, CWS, VP, WEALTH ADVISOR; LESLIE STICKLIN, CWS, VP, WEALTH ADVISOR;
AND JASON WALKER, CTFA, VP, TRUST ADVISOR AT REGIONS PRIVATE WEALTH MANAGEMENT

One of the most important decisions you'll face when establishing your trust is the selection of a trustee. The trustee is responsible for distributing assets to the beneficiaries of the trust according to the specified terms the trust agreement. An ideal trustee is honest, stable, dependable, organized and responsible. Although some individuals name themselves, a family member or friend, others choose a financial professional or corporate trustee for this critical role, or that of successor trustee. It seems like a natural decision to name a family member or friend as trustee because he or she may better understand your values or the needs of your family. But it's important to keep in mind that the demands on a trustee can be complex and require significant financial, investment, legal and administrative skills and capabilities – in addition to time and energy.

It's crucial during this decision making process to recognize that a professional trustee can serve as a neutral third party for you and your family. When serving as a trustee, a professional trustee has a duty to act impartially in investing, managing and distributing the trust property according to the trust agreement. In addition, as a truly independent firm, a professional trustee will operate with no bias, giving due regard to the beneficiaries' respective interests and to the complexity of each family's unique situation.

As an acknowledged fiduciary, a professional trustee will stand beside you and provide the guidance, oversight and advice you need to grow your assets and avoid errors, missed opportunities and legal entanglements. Today, a wide range of state and federal laws – including trust law, agency law, banking law, securities law and even contract law – set the standards of conduct for fiduciaries, like many corporate trustees, who provide investment management or advisory services.

It's important to remember that your directives may need to be carried out for a long time, in many cases for future generations.

If you choose a relative or friend to administer your plan, you may need to name one or more successors in case the first trustee dies, does not want to serve, or is unable to continue doing so. In more and more cases, assets may remain in trust for the lifetime of the beneficiary due to a number of situations, special needs beneficiaries, spendthrift beneficiaries, and beneficiaries with pending or potential creditor challenges, to name a few.

In the case that you want to appoint a family member or friends as trustee, you can simultaneously work with a Wealth Advisor to handle investments, regulatory compliance, taxes and reporting requirements of a trust. However, constantly changing tax laws, and regulations are driving the need for the kind of knowledge and oversight that only a professional fiduciary can provide. A corporate trustee specializes in and stays current on the many facets of fiduciary responsibility, financial management, tax planning, business succession, and trust services so you don't have to.

One of the most valuable aspects of a corporate trustee's service is the ability to consolidate, control, and manage assets as a single, impartial and dedicated provider. While choosing your trustee, take time with your Wealth Advisor to discuss how you might benefit from the services of a corporate trustee.

While each trust and family is unique, the issues and problems they face typically aren't. A corporate trustee handles hundreds, even thousands, of trusts and has seen a wide range of issues. This experience creates insights about how best to respond to or resolve an issue that a family may face. Individual trustees by contrast typically manage only one trust and their perspective and experience are necessarily limited. The broader experience of a corporate trustee will provide objectivity, accountability, consistency, expertise, coordination of services and cost-effectiveness to give you peace of mind knowing that your wishes will be carried out.



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What Taxes are Required to be Filed for a Deceased Taxpayer?

BY DEANNA L. MULDOWNNEY CPA, AEP
AND JAMES D. WRIGHT CPA, J.D., LL.M

When someone passes away, there are many items that have to be taken care of to close out the deceased person's affairs. Oftentimes this responsibility falls to a surviving spouse, family member or close friend. This person is not only dealing with the emotional burden of losing someone they care about but are also left with the tasks of finalizing the person's estate and honoring their final wishes.

When settling someone's estate, a few tasks are pretty evident. For example, the deceased person's final expenses need to be paid, and the deceased person's property needs to be transferred to the beneficiaries. However, what about taxes? Many people mistakenly believe that unless the person is a multi-millionaire, there are no tax issues to worry about but unfortunately, this is not true. The following are IRS tax filings that should be considered by anyone who has been left with the responsibility of closing out a deceased person's estate.

Income Tax Filings

Final Form 1040, Individual Income tax Return, and final state income tax return: A final form 1040, Individual Income Tax Return and state income tax return must be filed, if required, because the IRS statute of limitations does not run unless the tax return is filed and the IRS can put a lien on the estate.

The final tax return can be signed by a surviving spouse or a personal representative for the deceased taxpayer. A joint return can still be filed if there is a surviving spouse.

MANY PEOPLE MISTAKENLY BELIEVE THAT UNLESS THE PERSON IS A MULTI-MILLIONAIRE, THERE ARE NO TAX ISSUES TO WORRY ABOUT BUT UNFORTUNATELY, THIS IS NOT TRUE

The return should show "deceased" by the taxpayer's name along with the date of death.

If the taxpayer is required to take a required minimum distribution (RMD), this is also required in the year of death. If the taxpayer did not take the RMD before passing, it is the responsibility of the surviving spouse or personal representative of the taxpayer to make sure this is done by year end.

Form 1041: This form is required if the decedent has to pay estate income taxes or if the decedent has a trust that is required to file for income taxes. Form 1041, U.S. Income Tax Return for Estate and Trusts, is used to report reportable income earned by the estate or trust after the death of a taxpayer. The estate and/or trust is required to obtain a new federal identification number for this new entity.

Estate Tax Filings

Form 706: If the deceased taxpayer has an estate over \$11,400,000, then a Form 706, U.S. Estate Tax Return is required to be filed within 9 months of death. This return can be extended for 6 months with a proper filed extension form 4768 but any tax due has to be paid within the 9 months of death. The Form 706 is also filed for a surviving spouse to elect portability. The \$11,400,000 is adjusted for inflation and is set to revert back to \$5,490,000 beginning January 1, 2026. The executor of the estate is responsible for filing the 706 and paying any tax due.

Form 8971 is used to report to beneficiaries any property inherited from the estate.

Form 56 can be filed by a fiduciary to notify the IRS of this relationship or termination of such.

Form 709: A form 709, U.S. Gift Tax Return is required if the decedent made a complete gift over \$15,000 in value during the year of death. Gifts to charities are not reported on this form.

As you can see, there is a potential for several IRS filings and this could become overwhelming.

The good news is there are professionals that can help. It is paramount that you consult your CPA or Attorney to ensure all items are properly tended to and then you can rest easy knowing you have done everything correctly and honored the deceased person's final wishes.

Deanna L. Muldowney, CPA, AEP and James D. Wright, CPA, J.D., LL.M. are Tax Partners with Carr, Riggs & Ingram, LLC.

Why Do I Need A Lawyer To Assist With Estate Planning?

BY LISA JO SPENCER

Because we also assist families going through the probate process, we see first-hand the harm that can come from doing it yourself! It is usually through additional expenses that could have been avoided, or even worse – assets passing in ways never intended and/or to people not supposed to receive them. Additionally, fill-in-the-blank forms (whether from an on-line source or an office supply store) may or may not track current Florida law; or if improperly done, may not do as expected! The goal here is to show the wisdom of using an estate planning attorney's guidance since generally the discovery that things won't go as intended is usually after it is too late to fix them!

One of the most common problems is adding a child to your bank account(s). While it may seem logical since Susie is going to help you manage your money, there are several reasons why it isn't recommended. First, Susie is legally now a joint owner on those accounts, so upon your death Susie becomes the outright owner of them - meaning she has no legal obligation to "share" with her siblings. No biggie, you know she will do the right thing, but it is surprising how many times Susie claims she was supposed to keep what was left (since she'd taken care of you or for whatever reason she comes up with). Even if she decides to share with her siblings, depending upon the size of the account(s), there may be tax consequences when she writes the checks to her siblings. Or, what if Susie ends up with some sort of creditor issue and all "her" accounts are garnished by the creditor? Unless she acts very quickly, the accounts she's a joint owner on could also be taken. This can happen with very devastating results for you and it probably can't be reversed. There are several ways an attorney can assist you in accomplishing your desire to have Susie assist you, but without these negative consequences.

Another problem arises when fill in the blank deeds are used, or an old deed is "copied", and you think just changing a name here and adding another one there will transfer your property upon your death and avoid probate. Maybe, but maybe not, depending upon lots of different factors. Real estate transfers require very specific language for the transfer to avoid probate

and ensure there aren't unintended tax consequences. Leave out a word – or add one that seems to make common sense to you, but doesn't mean the same on a deed, and your wishes won't be carried out – costing at least tenfold what you "saved" by doing it yourself both on clean up and in tax consequences.

On-line and fill in the blank powers of attorney, wills, revocable trusts, and other legal documents can also have inadvertent consequences when not drafted properly. Just as with deeds, specific language is required to allow people to act for you while you are alive, and after you pass away. Some powers given to an agent through a power of attorney are so important, they are deemed "super powers" and must be executed properly to allow the agent to carry out your wishes. Additionally, the execution (or signing) of documents must be done pursuant to law or the document could be invalid. The language in a Will is equally important!

Estate planning is too important to trust the form or on-line advice you found to accomplish what you want. The effects of getting it wrong can be much worse than the perceived convenience and cost savings.

ONE OF THE MOST COMMON PROBLEMS IS ADDING A CHILD TO YOUR BANK ACCOUNT(S)

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BENEFICIARY PLANNING STRATEGIES

Many people invest their retirement savings in IRAs because they offer tax advantages, flexible options for accessing the money in retirement, and a simple way to pass wealth along to heirs. However, without thoughtful beneficiary planning, what should have been simple — can quickly become complicated. As you think about passing your wealth along to your heirs, consider the following strategies.

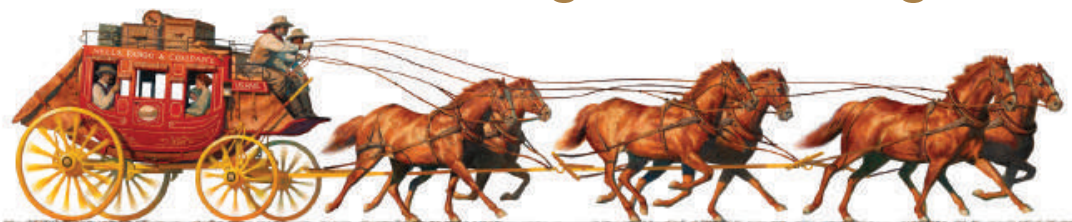
Stretch IRA strategy — If one of your primary goals is to transfer wealth and build a legacy for your children or grandchildren, the stretch IRA strategy may help you achieve this goal. The stretch IRA is not a special type of IRA. It's an approach to estate planning that attempts to maximize the tax-advantaged growth potential of the IRA assets by leaving them in the Inherited IRA as long as the law allows. Stretching an IRA simply refers to the ability to take required minimum distributions (RMDs) over the beneficiary's single life expectancy using the term-certain calculation method. The younger the beneficiary is, the longer his or her life expectancy — resulting in smaller RMDs taken in the beginning which become larger over time. This strategy minimizes how much must be taken out of the IRA each year and, more importantly, allows the funds remaining in the account to continue to potentially grow on a tax-advantaged basis. This avoids a large, generally taxable, lump-sum distribution to the beneficiary

Beneficiaries may always take more than the RMD, but

are not mandated to do so. While Inherited IRA distributions may be subject to ordinary income tax, there is no 10% IRS tax penalty. You need to carefully consider who you name as your IRA beneficiary in order for the stretch IRA strategy to be successful. Naming a trust or your estate can limit the tax benefits and length of time the assets can stay in the Inherited IRA diminishing the effectiveness of this plan.

Standard vs. per stirpes designation strategy — Choosing a beneficiary for your IRA is an important decision; however, knowing how your assets can pass to your heirs through the standard or per stirpes beneficiary designation is just as important. Most IRA contracts have a standard designation where your beneficiary must be alive upon your death to inherit their share. With a per stirpes designation, if a beneficiary predeceases you, and you do not update your beneficiary designations or a beneficiary disclaims their portion, their share would go to their descendants; usually their children. Any named beneficiary who predeceases you

Together we'll go far



CHOOSING A BENEFICIARY FOR YOUR IRA IS AN IMPORTANT DECISION; HOWEVER, KNOWING HOW YOUR ASSETS CAN PASS TO YOUR HEIRS THROUGH THE STANDARD OR PER STIRPES BENEFICIARY DESIGNATION IS JUST AS IMPORTANT.

and has no descendants will follow the standard designation, if a per stirpes designation was selected. Keep in mind that a spouse is not an heir under a per stirpes designation.

There are many considerations when naming beneficiaries as this only represents two of many options. It's best to consult with your legal and financial advisors to align with your current estate plan.

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SPECIAL NEEDS FINANCIAL PLANNING

BY TODD SENSING



As a parent, seeing your child grow up and come into their own naturally brings about a flood of emotions. There's pride for how much they've grown and learned, optimism for future potential, and a healthy dose of fear for the uncertainty of what the future may hold. While the pride and optimism may remain the same if you're the parent of a child with special needs, there's no doubt that you also carry a considerable amount of trepidation when considering your child's future. Here are ten tips for creating a successful, holistic financial and life plan for your child with special needs.

1

Prepare a Letter of Intent (LOI) for the care of your child with special needs. This non-legal document may be the most valuable thing you leave behind. It's a "guidebook" of sorts that covers all things related to the care of your child including medical history, social interests, and even food preferences.

2

Use a Special Needs Trust (Supplemental Needs Trust) instead of disinheriting your special needs family member. Enlist an attorney with expertise in drafting these specific documents to ensure the quality of the final product for your family.

3

Apply for all the services and benefits you are entitled to receive. Often, the process for applying for government benefits is a lengthy one and can also require more than one attempt at gaining approval. Start early.

4

Give careful consideration when choosing the future guardian or trustee for your family member with special needs. Carefully think through the traits needed for each role and do not assume that a close relative is an obvious choice.

5

Seek out the help of advocates and fiduciaries. Choose professionals who will put your family's interests first when planning and caring for your child.

10 TIPS FOR A SUCCESSFUL PLAN

6

Coordinate your planning with your relatives' planning. Make sure extended family is aware of your plans and does not jeopardize potential government benefits by leaving funds to your child with special needs. As little as \$2000 in assets under your child's name can disqualify him or her from government benefits.

7

Communicate with local law enforcement about the needs of your child and practice important safety procedures. Practice your responses to emergencies such as tornadoes and fires. Document important phone numbers and websites for your family member to access regarding safety information and updates. Alert your local public safety officers (fire, police, and paramedics) to your child's challenges.

8

Review account titles and beneficiary designations. Beneficiary designations and titles dictate how assets will be passed on – Ensuring proper naming can secure no disruption in benefits.

9

Begin planning for employment and housing transitions early. Transitioning into adulthood can be a challenging time for an individual with special needs. There are many moving parts to these big life changes, so early planning is always a good idea.

10

Utilize the support from other families navigating similar challenges in your community. The information you share with each other and the support you give other families like yours is invaluable.



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THE DIRTY SIDE

of ESTATE PLANNING AND ASSET PROTECTION – REAL ESTATE!

BY KENNETH R. FOUNTAIN, ESQ. | FOUNTAIN@FOUNTAINLAW.COM



Most of my clients contact me about what to do with their “dirt” – what to do with their Real Estate!

Our Home is the most significant asset for planning our estate. We want to plan our estate to make sure that the Home stays in the family and serves as a source of income and opportunity for future generations.

Many of us have real estate investments, second homes, and business properties to consider when planning our will and estate. How do we protect the family, the business, or the estate from the risks of owning rental and vacation properties? What happens to the business property in the event of death or disability of a key owner or manager of the business? Can the property be transferred without long and expensive Probate proceedings?

As a **Florida Bar Board Certified Real Estate Lawyer** when clients bring me their “dirt” issues I advise my clients not just about their *Will and Estate Plan* but also their *Business Plan*, *Asset Protection Plan* and *Personal Wealth Plan*.

Florida Homestead Law provides broad protections of the primary residence against the claims of creditors regardless of value. The Florida Constitution provides these protections during your lifetime and also in favor of surviving spouses and minor children. Florida law also provides benefits limiting the amount that your homestead property taxes can increase each year. However, these benefits come with restrictions on how the homestead can be conveyed during your lifetime and devised when survived by a spouse or minor children.

Property can be held as **Joint Tenants with Full Rights of Survivorship**. Title automatically conveys to the surviving owner upon the death of the co-owner and avoids Probate but the property may become subject to

the claims of creditors of the surviving owner.

The **Enhanced Life Estate** or **Lady Bird Deed** enables the owner to retain title over the use of the property while naming the beneficiary who will take title upon the death of the owner. This deed avoids Probate and limits the exposure of the property for liabilities to creditors.

An **Irrevocable Trust** or a **Qualified Personal Residence Trust (QPRT)** can effectively remove and reduce the valuation of the real property for estate and gift tax purposes. The use of a QPRT can be beneficial to protect against the claims of creditors and when the

property will continue to be used by family members after death but careful planning is needed to avoid future capital gains and planning for liquidity.

A **Revocable Living Trust** can effectively avoid the need for Probate and include plans for the event of disability during the owner's lifetime. The Revocable Trust the owners can specify who will take their place as Trustees of the Trust in the event of death or disability.

Business and Investment Property can be held in **Limited Liability Companies** to limit exposure to liability from creditors and from operating

risks of property ownership. These entities also survive the death of the owner and avoid Probate to transfer ownership of real property.

The **Florida Land Trust** combines all of the potential benefits of using a Trust, LLC, FLP, and even for Homestead property. The Florida Land Trust allows the owner to remain confidential, to maintain control over the property, to avoid Probate, and to protect the beneficiaries from the claims of creditors.

Before you buy or sell any real property make certain that you have consulted with a Board Certified Real Estate Attorney to avoid any future “dirt” issues for you and for your family.



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Nursing Home FACTs are a Threat To Your Estate

BY KEITH P. VANOVER

FACT: According to a Genworth study published in the U.S. News and World Report, over 72% of Americans over the age of 65 will need long-term care. Only 6% of Americans have a long-term care insurance policy.

MYTH: Medicare will pay for my long-term care.

FACT: Medicare will only cover a maximum of 20 days of long-term care.

MYTH: I'm a retired veteran and TRICARE will pay for my long-term care.

FACT: Tricare will only pay a maximum of 100 days of long-term care.

MYTH: I will just give away my assets if I need to go into a nursing home.

FACT: There is a 5-year lookback to receive benefits. Any transfer of assets to family members within the prior 5 years can result in loss of benefits.

MYTH: I have to give up control if I have an Irrevocable Trust.

FACT: You can be the trustee of your own Irrevocable Trust. You control the checkbook during your life.

MYTH: Only the Rockefellers need a Trust.

FACT: Any person with countable assets over \$2000 needs to pre-plan or face the crisis.

FACT: A single person applying for nursing home benefits can only have \$2000 in assets. They must spend all of their money down to \$2000 before being eligible for benefits.

FACT: The average cost of a nursing home in Florida in 2019 is \$9101 per MONTH! These prices are increasing at an average of 7% a year.

What is the solution?

Pre-planning your estate is the only way to deal with these facts. There are estate planning documents that can pre-position your assets ahead of time so that they are protected from nursing home costs. We can create a package of documents that are tailored to your exact estate. We charge a flat-fee for our document packages and it usually costs less than staying two weeks in a nursing home.

I have created the Florida Asset Protection Irrevocable Trust (FAPIT) to specifically protect your assets from nursing home costs and lawsuits.



VANOVER LAW FIRM, P.A.

The FAPIT is a new type of Trust that allows any size estate to protect their assets from lawsuits,

creditors and nursing home costs. The only way to get this protection is by pre-planning.

My name is Keith P. Vanover. I am an estate planning attorney here on the Emerald Coast. I am also a former U.S. Air Force veteran who served at Eglin A.F.B. from 1990 to 1994. I used the G.I. Bill to finish up law school in 1997 and came back home to open the Vanover Law Firm, P.A. in 1998. We just celebrated our 21st Anniversary serving the local legal needs of the Emerald Coast.

Please take my gift certificate out of this magazine and call my office to set up your appointment. This gift certificate entitles the holder to a 45-minute estate planning review appointment at my office in Fort Walton Beach, Florida. This gift certificate will expire on December 31, 2019. There is no better time to review your estate than right now. The sooner you pre-plan the sooner your assets will not be lost to nursing home costs or future lawsuits. Let's make 2020 the year that you set up and protect your estate for your family. Call me today at (850) 650-3847 or make an appointment on my website at www.Elderly.Law. You can also sign up for my free educational luncheon seminars as well.



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Free Estate Planning Review Gift Certificate

The holder of this gift certificate is entitled to a FREE 45 minute office visit to review their families estate plan.

Expires: 12/31/2019

*For more information contact Keith Vanover at
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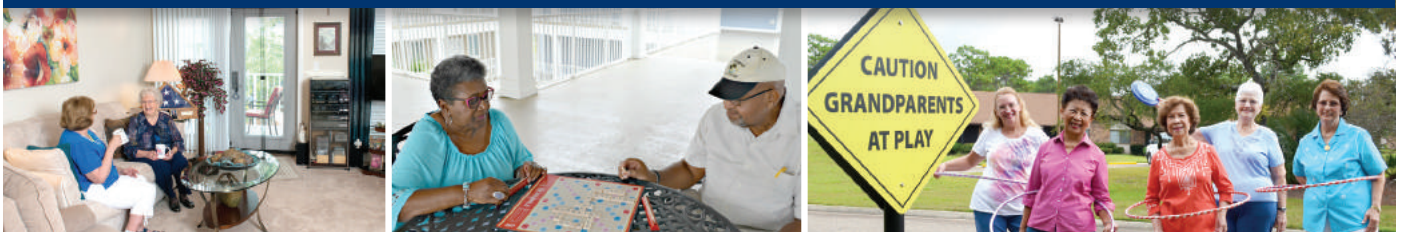
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8:15 AM

Opening remarks/
sponsor statement

8:30 - 9:20 AM

Estate Planning Misconceptions
& Mistakes

9:20 - 10:10

Business Succession

10:10 - 10:25

Break

10:25 - 11:15

Smarter Distribution &
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11:15 - 12:05

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