ESTATE PLANNING

October 2018

EMERALD COAST

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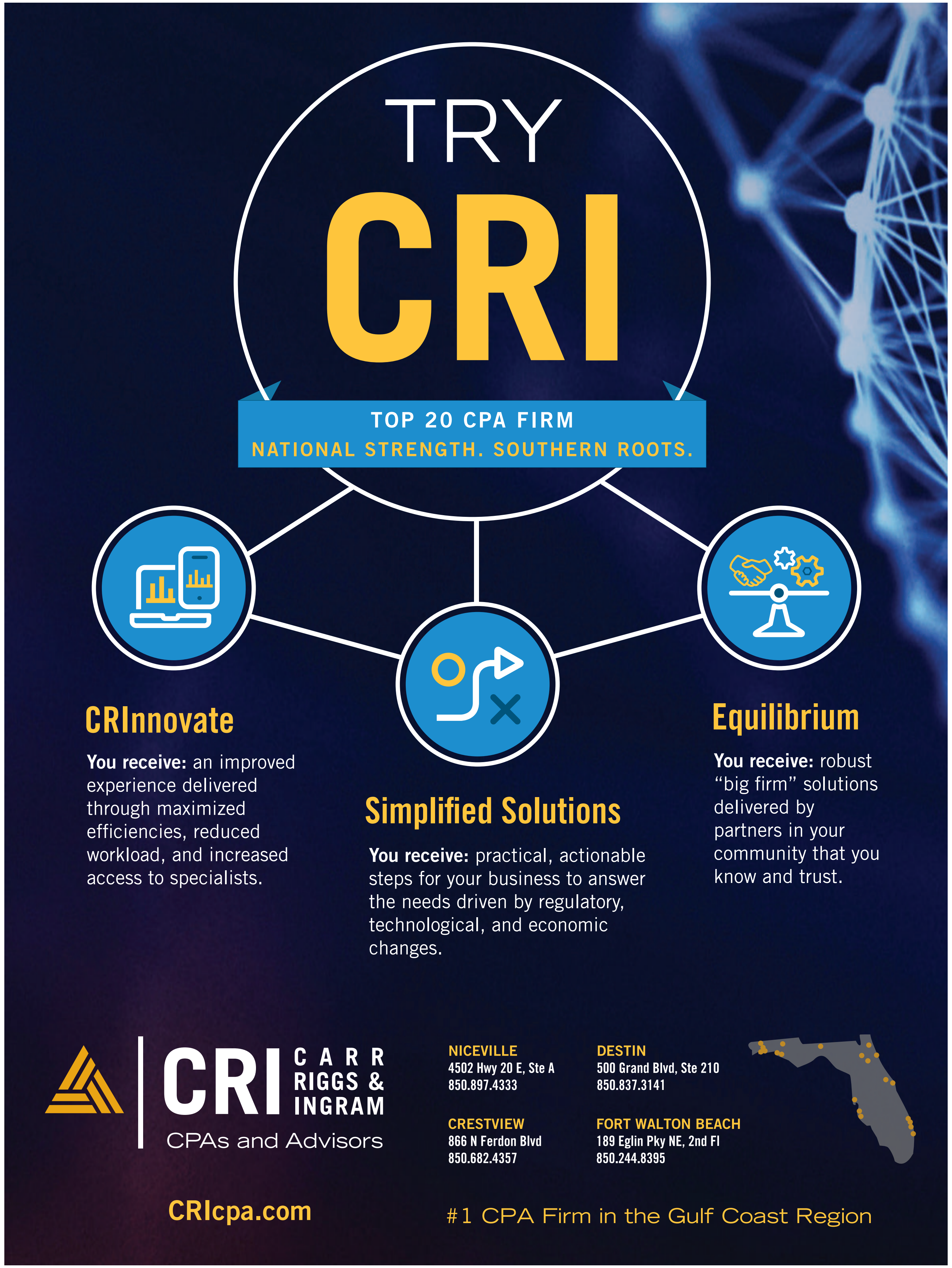

WELCOME.

From the Estate Planning Council of the Emerald Coast

This initial Estate Planning Magazine is brought to you by the Estate Planning Council of the Emerald Coast distributed by the Northwest Florida Daily News and its subsidiaries, with the goal of making estate planning a little less obscure and "frightening"! By providing you an overview of several more common estate planning topics we hope to both educate and enlighten you with the ultimate goal of motivating you to act and ensuring your estate plan is in order while you are of full capacity.

As part of the National Estate Planning Week in October, our council will be hosting the first Emerald Coast Estate Planning Day at Northwest Florida State College on Thursday, October 18 from 8:30am to 1:30pm. Please look for the announcement in this magazine and join us to hear our council panel of experts talk on our four main topics Basic Estate Planning, Elder Law, Asset Protection, Retirement Planning / Annuities, and take your questions.

The Estate Planning Council of the Emerald Coast was formed a little more than 10 years ago as a not-for-profit organization, whose purpose is to foster communication, cooperation and education among those who are involved with the estate planning process in the Bay, Walton, Okaloosa and Santa Rosa County areas. It is comprised primarily of attorneys, certified public accountants, certified financial planners, trust officers and insurance professionals who provide estate planning services.

Nobody wants to think about the time when they are no longer here, or become incapacitated. However, we find that clients feel a sense of real relief and satisfaction when they work with a professional and are guided through the planning process to make sure their financial house is in order. This is irrespective of age and assets, as the onset of unwelcome circumstances can be completely out of our control and happen at any time .

We hope you find this resource helpful and enjoy reading the 1st edition!

Chris Poate, CFP is President of the Estate Planning Council of the Emerald Coast.

This is a Magazine Promotional feature paid for by the Estate Planning Council of the Emerald Coast.

Extra copies are available at member's offices.

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THE PROBATE PROCESS & HOW TO AVOID IT

By Kevin M. Helmich Esq.
& Amy P. Slaman Esq.

When someone dies, there is always work to be done to settle his or her estate. Often, the estate of a decedent is settled through a process called "probate". A probate administration is a court proceeding, and the procedures that must be followed are set forth in great detail in the Florida statutes.

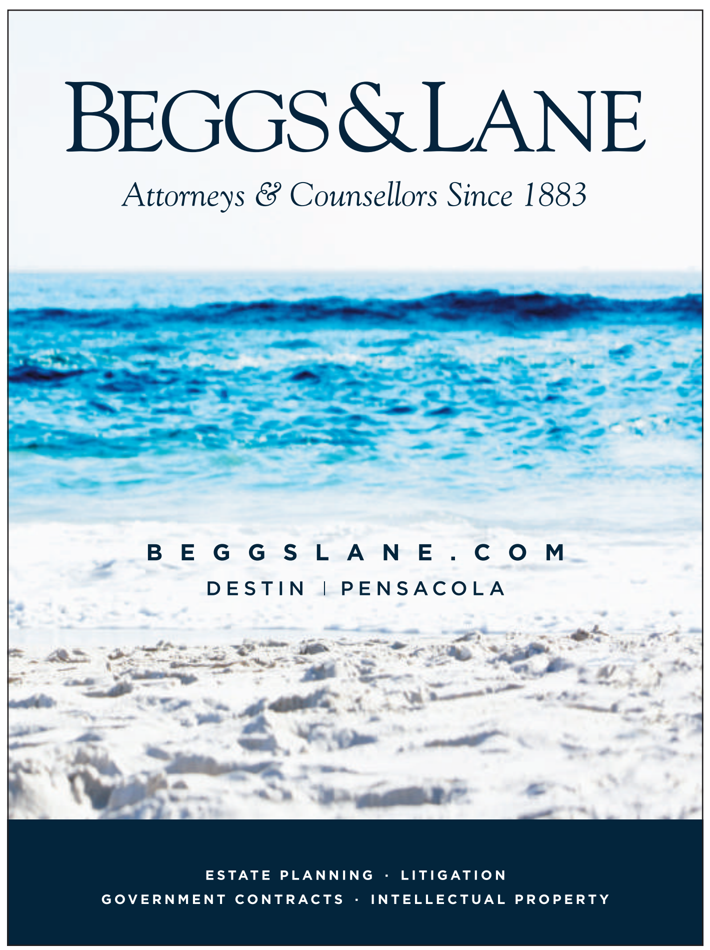
If a decedent had a Will, the Court admits the Will to record and appoints a "Personal Representative" (called an "Executor" in many states). The Personal Representative (abbreviated as the "PR") is bound to administer the estate in the best interest of all "interested parties". Interested parties include both beneficiaries ***and*** creditors. The process is closely monitored by the Court, and failure to follow the statutory procedures can result in liability for the PR.

The PR must gather the estate assets, determine their value and file an inventory with the Court. The PR must also determine the creditors of the estate and publish a notice of the probate in a local paper. During the administration, the PR must invest and protect the estate assets. Periodically, notices must be sent to beneficiaries and creditors giving them an opportunity to monitor the actions of the PR and object if necessary. In each instance, documents must be filed with the Court showing the PR is doing everything required under the statutes. The process can be lengthy, expensive and frustrating. Given the choice, most of us would like to avoid the time and money associated with probate. Fortunately, there are several ways of doing so.

One way to avoid probate is to title assets so they pass by "operation of law". If you name a beneficiary on a life insurance policy or an IRA, the proceeds are payable to the beneficiary when you die without the need to go through probate. You can also name a "Payable on Death" beneficiary for a bank account. You can own assets jointly, and provide a "right of survivorship". Asset titling can be effective and offers the benefit of simplicity, but it can have significant practical and tax implications.

Another alternative is to create a revocable living trust. A living trust is created while you are alive, but you retain the ability to amend or revoke the trust and to spend trust assets whenever you want without asking anyone's permission. If you transfer assets to a trust while you are alive, a probate judge is not required to transfer ownership at your death. In addition to probate avoidance, revocable living trusts have other benefits such as privacy, incompetency planning, tax avoidance and increased flexibility.

There are many options to consider. The important thing is to speak to a qualified professional prior to taking any action to ensure you are using the most efficient strategy for your particular situation.



who gets THE HOUSE?

By Lisa Jo Spencer Esquire

Florida's homestead law can create many issues for families when loved ones pass away. (For purposes of this article, we are assuming that the homestead was owned by one spouse individually and not as husband and wife.) Most people are familiar with the property tax savings families can receive if they meet certain criteria, but homestead distribution after death provides different benefits. One of the most important benefits is that creditors of the decedent (other than a mortgage holder) cannot levy against it. In other words, family members do not have to worry about selling the homestead to pay final expenses, medical bills, or even credit card debt.

Property qualifies as homestead when the owner uses it as his or her permanent residence, regardless of whether it has the property tax exemption. If the owner had moved into an assisted living facility or a family member's home and was living there at the time of death, there may be an issue regarding whether the decedent had abandoned the homestead, but this is not always a disqualifier. Also keep in mind that if the residence listed on the death certificate is not the homestead, the court may deny exempt homestead status.

Distribution of the homestead upon death is not always intuitive. If the decedent is survived by a spouse and/or minor child(ren), it cannot be devised by a will or trust to other persons. By law, the surviving spouse receives a life estate (meaning he or she can live there until their death) and the minor child(ren) receive(s) the remainder. But, if the surviving spouse acts timely, he or she could petition to receive a one-half interest in the homestead (the children receiving the other one-half interest). If there are no minor children, then the decedent may devise the property through a will or trust only to his or her spouse. If there is no surviving spouse or minor child(ren), the owner may devise the property to anyone; however, depending upon to whom the property is devised, the protection from the claims of creditors may be lost.

Planning for the distribution of the homestead may be particularly challenging in blended families since one spouse may have purchased the home prior to marrying the current spouse, and the owner may also have children by a previous marriage. The owner is bound by the same rules (he or she can only devise a life estate to the current spouse with the remainder to the minor children). If the owner's youngest child is already eighteen, the owner can only devise the homestead to his or her spouse. Neither of these scenarios may be what the owner desires. The law allows a spouse to waive his or her rights to the homestead in either an antenuptial/prenuptial agreement or disclaimer, which may alleviate these issues, but both parties must fully understand the rights being relinquished if doing so. If a married couple desires for the homestead survivor of them, the best way to accomplish this is by purchasing the homestead as tenants by the entireties (i.e. as husband and wife). However, this is not always an option.

Another issue that can arise during the lifetimes of the spouses is if the owner wishes to sell or mortgage the property during their marriage. For the owner to do so, the other spouse must consent. Although this is usually not an issue, it is something to consider. Because of Florida homestead law's complicated nature, one should always consult an estate planning attorney in all matters that involve the homestead.

ESTATE PLANING AS EASY AS 1-2-3

By Hubert Ross

Ask any group of people if their estate plans are in order and you'll get one of two reactions: blank stares from those who have no idea what an estate plan is, or why they might need one; or second, everyone immediately zones out because who wants to think about dying. The good news is estate planning is about more than dying and it doesn't have to be complicated to be effective.

For all the legal jargon and complex planning strategies, estate planning boils down to deciding and documenting what you want to happen should you become incapacitated and unable to handle your affairs, and what happens to your assets when you die? That's it. Who makes decisions for you, if you can't make them yourself? And what happens to your stuff when you die?

Who needs an estate plan? Many people assume only the affluent and wealthy need estate plans. Wrong! Every adult needs a plan; period. Only you know who you want to make decisions for you, and only you know who you want to inherit your assets. Your spouse, children, parents, siblings and friends only know what they think you would want; you know what you want. Now that we're clear what a plan is and who needs one, how do you get started? It's as easy as 1, 2, 3.

1: Decide What you Want

In the privacy of your own home, take out piece of paper and jot down the name of the person(s) you would want to handle your affairs, if you could no longer take care of them yourself. It could be a spouse, sibling, adult child, or close friend. Next, think about who you want to receive your assets when you die. Jot down who, what, how much, when and why? With this information, you're ready to proceed to step 2.

2: Work with a Pro to Formalize your Plan

Once you've decided what you want your plan to accomplish, it's time to work with a professional to turn your notes into a legal, documented plan. You might be thinking I don't know any estate planners. Fortunately, there are lots of resources to help you find one. Start with family and friends who already have their plans in place. Ask them which professional helped them, what the experience was like, and if they would recommend that person. Another excellent resource is the Florida Bar Association. Their free *"Find An Attorney"* tool allows you to find professionals in your community who specialize in estate planning. The National Association of Estate Planners and Councils' website search feature, and the online member directory of the Estate Planning Council of the Emerald Coast allow you to find qualified local professionals from the legal, trust administration, tax, financial planning, and insurance disciplines who believe in the team concept of estate planning. Regardless of which resources you use to find prospective planners, consider their professional knowledge, experience, ethical background, and personality when making your selection. After your attorney has prepared the appropriate legal documents, it is time to move to step 3.

3: Communicate Your Plan

It does little good to go through steps 1 & 2, if you don't communicate your plan. After all, what good is a well-crafted will or power of attorney, if no one can find it when it's needed? Why go to the trouble of selecting "the right" administrator, guardian or trustee if they aren't willing to serve? So, communicate your plan to your loved ones, particularly those who have a role to play in its execution, and those who are beneficiaries. You don't have to get into all the details but do share the broad outlines. Be sure someone besides you knows where to find, and can access, your key legal documents. Talk to adult children about your choices for everything from end of life care to administrator. Who better to articulate your reasoning for choosing "do not resuscitate" or for leaving a bequest to a favorite charity? The legal documents in your estate plan can explain "the what". Only you can explain your "why".

Estate Planning need not be difficult or overwhelming. Follow these three simple steps and you, and your loved ones, will have peace of mind knowing your affairs are in order.

Hubert Ross, CPWA®, CFP®, ChFC®, AEP®

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CHARITABLEGIVING

By Mark Dutram

Developing and organizing a family legacy of philanthropy is an important component to more and more estate plans. There are now simple and effective tools in both passing on your passion for charitable causes and preserving the beneficial tax consequences in the process.

Donor Advised Funds (DAF) are wonderful accounts to help establish a legacy of giving. As you share your values, heirs and loved ones can be part of the process of distributing gifts and grants to your favorite church, alumni, charity, or other recognized 501(c)(3). Most families name successor family grant advisors to allow your values to be passed on, and the DAF to last for generations to come.

Many families choose to name their DAF which will bring a sense of pride to the entire family. You can use names like "The Smith Family Foundation", or "The Smith Charitable Endowment". For those who have established DAFs, it is quite common for these families to meet on a regular basis, at fun locations, to discuss and allow all generations to bring their respective charitable causes to the group. This in turn brings families together to plan and focus on making meaningful and impactful outcomes in the communities they represent.

HOW DOES IT WORK?

Each DAF is a separate fund maintained by a public charity which is created when a donor makes a gift of cash or assets. The gift allows the donor to receive an immediate income tax deduction, avoid capital gains on appreciated assets, and have the ability to make donations to charities at any time. The ability to make grant recommendations will continue for the life of the donor and future generations can make these recommendations for the rest of their lives if appointed by the donors.

Donors can choose to make grants immediately from the DAF account or delay their giving. Also, donors have the ability to set up recurring donations, a favorite feature of those who use their donor-advised fund to tithe to their local church.

A donor can recommend that their financial advisor manage the assets of their DAF into a wide range of investment options, or they can manage the assets themselves. This strategy could be beneficial to anyone who is subject to paying capital gains taxes on appreciated assets, whose estate is subject to taxes, who wants to benefit charity, and who wants to involve their children and family in philanthropy.

Example - Jack & Dee Smith

Jack and Dee Smith have made annual gifts totaling $5,000 to their church, their alma mater and the local symphony. With a combined income of $175,000, the Smith's portfolio includes $100,000 worth of XYZ stock that Dee purchased with a $40,000 inheritance several years ago.

The Smiths want to sell XYZ stock but don't want to pay the $9,000 in capital gains tax. By transferring the XYZ stock to a DAF, they receive an immediate $100,000 income tax deduction, which reduces their tax burden by $22,000. Also, with all of their charitable giving coming from The Smith Family Foundation, they have freed up $5,000 of cash flow each year to use for other purposes. After the stock transfer into the DAF, the stock is sold and the proceeds are reinvested in mutual funds designed to produce an average yield of 6%. This should sustain the DAF for many years of future charitable giving.

This example is hypothetical and for educational use only. This assumes a federal marginal tax rate of 22% and a long term capital gains rate of 15%.

Mark Dutram, CPWA®, CFP®
Vice President
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FINANCIAL FOCUS

By Shelley Albarado

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.)

Have You Planned for Longterm Care?

• 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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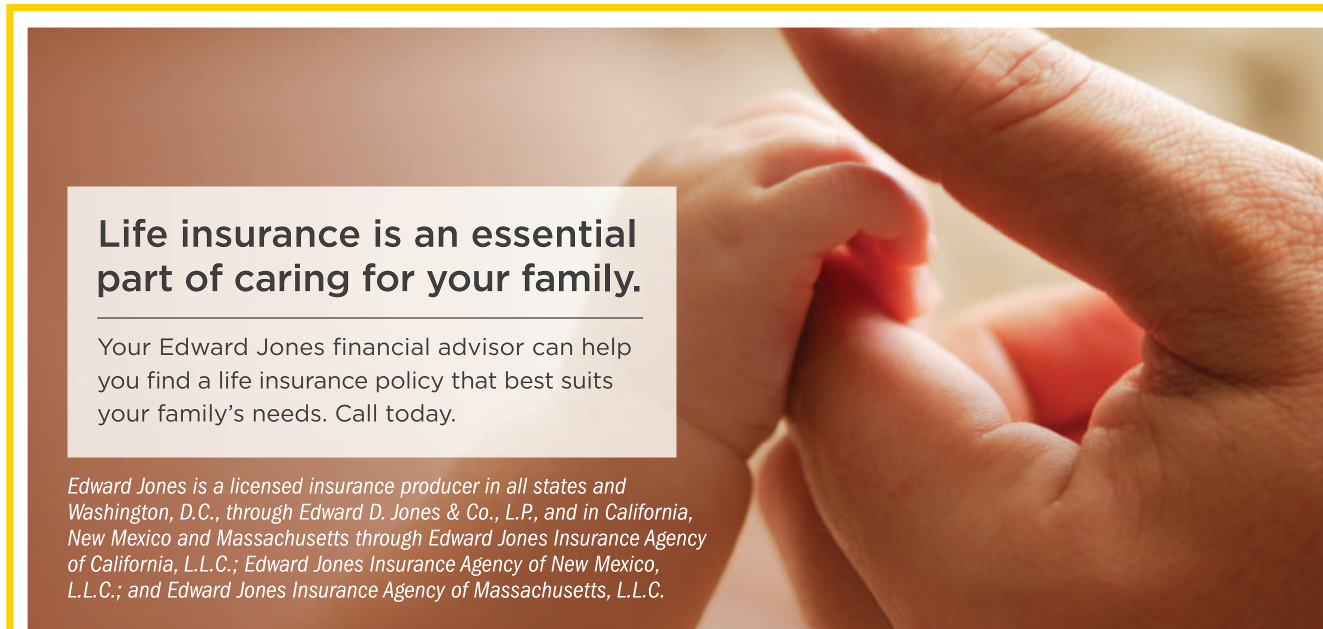

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Shelley F Albarado
Financial Advisor
2166 West Highway C30a
Suite C
Santa Rosa Beach, FL 32459
850-622-2112

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WHAT IS GOING TO HAPPEN TO THE BUSINESS?

By H. Bart Fleet, J.D. LL.M.

There are far too many tragic stories about the family business, or an individual's professional practice, when the owner stops working or decides to cut back. Do you or your spouse own an interest in a business? Have you considered what might happen if you or your spouse dies or becomes disabled? Another event of equal importance is the subject of retirement. In other words, is there a strategy or plan for you or your spouse's exit from the business?

Has the plan been reduced to writing? If you or your spouse own the business with someone else, do you want to be in business with the other owner(s)' spouse or family? Deciding now if the remaining owners will buy the deceased or disabled owner's interest later is important. Planning on how the purchase price will be determined, and how the price will be paid, is also necessary. In other words, there must be a written agreement among the owners to create a contractual obligation for the deceased or disabled owner to transfer his or her shares to the other owner(s).

Is there a significant difference in age or health among co-owners? If so, insurance may not be a means to fund the buy-out, and the plan should contemplate a payment arrangement to fund the buyout. Are the other owners purchasing the ownership interest, or is the business going to purchase (redeem) the ownership interest? What happens if they close the business, or the other owners decide to form another entity?

Being the sole owner has its own unique challenges in developing your exit strategy. If you or your spouse are no longer going to work in the business, by reason of death, disability or retirement, who will take over? Will your children take over the business? That works well if you have a child who is already working in the business, or at least has a desire to do so. Personal agendas, related to economic growth and desires to increase one's standard of living, are such that the child or children working in the business are unlikely to be happy sharing the profits from the business with siblings who have not contributed to the business effort.

> "What happens *if they close* the business..."

Have you considered your options if your children are not interested in the business, or lack the necessary skill sets to own and operate the business? Are there employees that may be candidates to purchase the business? Under what terms and conditions could your employee(s) purchase the business?

The worst plan is to believe when you or your spouse can no longer work in the business, you will simply put it on the market for sale. Depending on the nature of the business, the loss of you or your spouse as a key ingredient to the business' success is likely to guarantee a dramatically low sale value for the business.

This is far more evident in a "service provider"-type business rather than with a retail store.

I know - lots of questions which lead to even more questions. But there is no simple solution. You cannot fix the issue with just the simple purchase of financial products, such as life insurance, disability insurance, or annuities, even though these type products are often incorporated in an exit plan. The real question becomes a matter of setting goals. If you have a desire to provide financial stability for your spouse and children in the event of your untimely death or disability, business succession planning is a must.

ESSENTIAL ESTATE PLANNING TOOLS

By Deanna L. Muldowney CPA, AEP

Everyone has a to-do list and, for some of us, getting our estate in order seems to stay on that list without ever being completed. We will discuss some essential estate planning tools so you can move this off your list! After all, you owe it to your loved ones to get this taken care of.

Your estate is not a DIY project like fixing a leaking faucet. Neither is it an exercise in Googling. Instead, it is POWER. The power to determine who and/or what gets everything you have worked for and built over your lifetime. Instead of looking at estate planning as a burden, think of it as the last and most important decision you will ever make. You have the power to leave behind a legacy and not a legal mess!

Most people do not realize that title actually determines how your assets pass. If an asset is just in one name, it is likely subject to probate. An asset in joint names usually avoids probate and a designated beneficiary or a transfer on death directly passes the asset without consideration of the will or trust. A list of assets and how they are titled will help guide the meeting with your estate planning professional.

The most common estate tool is a will. A will is a legal document that lists your wishes after you have passed. The will should outline who will handle or manage your estate, who will raise your children if applicable, and who will get your stuff and how they will get it. A will can be public information.

An estate tool used to avoid probate is a trust and the most common is a revocable trust. A revocable trust is a legal document that can manage how and when assets pass to heirs. During your lifetime these types of trusts can be changed, and they usually do not have a separate tax filing requirement. This is a private document and is usually hard to change after your death. This allows you to be in control of your assets after your death. This tool can provide income streams to spouses and/or family members as well as help reduce estate taxes.

Powers of attorney (POA) and living wills can be used if you are unable to make decisions for yourself. You can have a financial power of attorney which puts someone in charge of your financial affairs. And you can also have a health care POA and/or a living will which provides for someone to make health care decisions based on your outline of acceptable treatment. A POA is a powerful document so seeking legal counsel is strongly advised.

No estate plan is complete without talking about life insurance. Life insurance is part of your estate and can provide an instant source of tax free cash to your trust or heirs. Life insurance can be a resource to help with burial costs, estate taxes and provide a fund of available cash after death. This can be important if you do not have much liquidity in your estate. Life insurance is also not taxable to your heirs.

Essential times to update planning are when there is a milestone such as legal issues, marriage or divorce, illness, kids, etc. Put yourself and your family in the best positon possible and get estate planning off your to-do list.

Deanna L. Muldowney, CPA, AEP. Is a Tax Partner at Carr, Riggs and Ingram, LLC located in Miramar Beach.

IRA 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.

Roth conversion strategy — A Roth conversion is one financial strategy that is often overlooked when evaluating estate planning options. Learning about Roth IRA conversions may be a sensible step whether you are designing a comprehensive estate plan, trying to maximize your legacy, or passing your IRA to your heirs in the most tax efficient manner. Before taking action you need to consider the benefits of converting your taxable retirement accounts and the rules governing beneficiaries. Converting allows you to reposition your existing tax-deferred retirement accounts such as Traditional, SEP, and (after two years) SIMPLE IRAs or qualified employer-sponsored plan (QRP) such as a 401k (if eligible for distribution) to a tax-free Roth IRA by paying federal and possibly state income tax on the taxable amount of the conversion. Remember, you will not owe the 10% IRS tax penalty on the amount converted and as the Roth IRA owner you are not subject to RMDs during your lifetime. This optimizes the opportunity to build tax-free wealth that can be passed to your heirs. Your beneficiaries can take advantage of the stretch IRA strategy by beginning RMDs the year following the year of your death. These distributions would be tax-free as long as the Roth IRA had been established for more than five years.

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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WHAT ABOUT A FAMILY LLC OR LIMITED PARTNERSHIP?

By James D. Wright CPA, J.D., LL. M.

As we have all heard, the only thing certain in life is death and taxes. While we all have an obligation to pay taxes, the Government never said we should pay more taxes than we owe. In fact, Judge Learned Hand famously stated "anyone may arrange his affairs so that his taxes shall be as low as possible…for nobody owes any public duty to pay more than the law demands." With this in mind, many people arrange their affairs to minimize the amount of taxes owed during their lives, but what about arranging their affairs for when they die?

Most people realize the importance of having a will to ensure their final wishes are carried out appropriately. Some people even utilize trusts as a way to transfer property and potentially reduce taxes. However, have you ever considered a family limited liability company or limited partnership as a way to transfer property and also minimize taxes?

A family limited liability company (LLC) or limited partnership is an estate planning vehicle one should consider especially if he or she believes they may have an estate tax issue. The premise is that Mom and Dad contribute their property into a family LLC or limited partnership for ownership interests in the company. Mom and Dad then gift ownership interests in the company to their beneficiaries over their lives so that at death, they own a very small percentage of the company and their beneficiaries own the majority of the company.

There are several benefits to this strategy. The major benefit is that Mom and Dad successfully transferred a large amount of wealth out of their estates which reduces their estate taxes. When valuing ownership interests in companies for estate and gift tax purposes, the IRS allows taxpayers to consider discounts in the value of the company for factors such as lack of control and lack of marketability among others. Depending on the facts and circumstances, these discounts can be substantial and significantly reduce the amount of value a person has to include in his or her estate for estate and gift tax purposes.

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Another benefit is that because the assets are held inside an LLC or limited partnership, the owners of the company have limited liability protection. If a creditor has a claim against the family company, the claim can only be satisfied with the assets of the company. Anything owned outside of the company is protected.

A third benefit is that a family company provides an opportunity for the children to learn about the family assets. Mom and Dad may be struggling over who should handle the family affairs if they are no longer around. A family company would be a great vehicle to use to allow the children to take active roles in the management of the family assets while Mom and Dad are still around to make the ultimate decision. Mom and Dad can then more easily decide which child may be the best to put in charge if they can no longer make decisions.

While a family company provides benefits, there are also cons. The major downside is the administrative costs of using the structure can be expensive. Attorneys and accountants should be utilized to make sure the business structure is set up correctly and all tax returns are properly filed. Furthermore, the individual no longer owns the assets. While the company can be set up in such a way as to ensure Mom and Dad have control of the assets inside the company, they still no longer own the assets outright and do have fiduciary responsibilities to ensure all decisions are in the best interest of the company and all of its owners.

There are many factors one should consider when deciding on how to handle his or her wealth at death and unfortunately taxes is one of those considerations. There are many different mechanisms to help both transfer assets and minimize taxes. A family LLC or limited partnership is a structure that should be considered.

James D. Wright, CPA, J.D., LL.M. is a Tax Partner with Carr, Riggs & Ingram, LLC located in the Niceville office.

NURSING HOME MEDICAID

By Steven E. Quinnell - Elder-Law Attorney

A <u>typical example for an un-married client:</u> Ms. Anderson, age 78, a widow, is treated in the hospital for a broken hip, then placed into a nursing home for rehab. It turns out that she cannot return safely back to her own home. To stay in the nursing home long-term will cost $8,000/mo. if she pays privately. The only other option is to apply for nursing-home Medicaid, but right now she has too much money.

<u>Here are the basic nursing-home Medicaid rules:</u>
1. <u>Medicaid</u> (not Medicare) is the only government program that will pay the nursing-home expenses.
2. Medicaid is a type of welfare, so there are strict financial rules.
3. However, once we get the client on Medicaid, she only pays her <u>income</u> to the nursing home each month, and Medicaid pays the rest.

<u>Example:</u> Let's say Ms. Anderson has a homestead in Florida with a mortgage due of $50,000, a checking account with $5,000, a savings account with $40,000, a CD of $25,000, a paid-for car, and Social Security income of $1,300/mo.
The house is exempt, and generally cannot be taken by Medicaid, even after Ms. Anderson's death. The car is also exempt.
However, she is only permitted to keep $2,000 in the bank, and her total cash is $70,000, so we have to properly get rid of $68,000 immediately.
She could just pay the nursing home its $8,000/mo. until the $68,000 is used up, and then apply for Medicaid, but that that leaves her a with mortgaged home and no money to keep it up.
She is NOT allowed to give any money away, directly or indirectly, of any amount, to anyone. Medicaid looks back 5 years for any such gifts.

<u>Here are some simple things Ms. Anderson can do with her excess money:</u>
-Prepay an irrevocable funeral arrangement, any amount.
-Pay $2,500 into an additional miscellaneous funeral/burial account;
-Pay for homestead repairs;
-Pre-pay homestead utilities;
-Pay off her mortgage;
-Pay off any credit cards or other bills;
-Pay income taxes;
-Pay for attorney fees and CPA fees.
Once the excess $68,000 is properly spent down, Ms. Anderson will pay only her Social Security of $1,300/mo, and will NOT pay the $8,000/mo private-pay cost.

<u>Married client:</u> Medicaid also looks at the assets and incomes of <u>BOTH</u> married parties. Many married clients do not understand this.
Fortunately, there are some good special rules for married Medicaid clients:
-The spouse at home can keep an additional amount, approx. $120,000; and
-The spouse at home can keep all of her own income.

<u>There are other special rules for:</u>
-Clients with too much monthly income;
-IRAs;
-Life insurance policies with cash-surrender values;
-Rental-income properties
-Clients with disabled children
-Paying your family for their work, using a personal services contract.

<u>Importance of Durable Power of Attorney and other planning</u>: If a client becomes mentally disabled and can't sign documents any longer, it is critical that they previously signed a properly-drafted Durable Power of Attorney to someone. <u>Many clients have not done this yet</u>.

<u>The moral of the story</u>: Take your parents to consult with an expert elder-law attorney immediately to review their documents and finances.
(Note: No warranty, express or implied, is given here.)

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Steve E. Quinnell, Attorney
Board-Certified in Elder Law by the Florida Bar
913 Gulf Breeze Parkway #8 • Harbourtown
Gulf Breeze, FL 32561
850.432.4386 • efax 877.829.6329
SQUINNELL@QLAWFLORIDA.COM
Branch Office:
(by appointment only)
3298 Summit Blvd, Suite 8A,
Pensacola, FL
Jefferson Park
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THE "BIG FIVE"

LIFE PLANNING ESSENTIALS

By Lori Weems Evers

Estate planning isn't planning for death: it's planning for life. Good planning saves money. Good planning enables access to healthcare without financial ruin. And good planning assures those we trust most – not strangers – will care for us if we cannot care for ourselves.

All good estate plans include the following key components:

1. The Durable Power of Attorney

A durable power of attorney appoints one or more trusted persons to handle financial and legal matters on behalf of another "just in case" the need arises. Without getting into the details of the language or the formalities for validity, critical issues addressed by a power of attorney include:

- Who will act on your behalf.
- Types of powers you will give them.
- Sufficient flexibility to protect you and your assets.

2. Designation of Health Care Surrogate & Advance Healthcare Directive

A designated health care surrogate makes health care decisions for a patient when a doctor finds that a patient cannot. A surrogate should be knowledgeable of healthcare, aware of the patient's personal preferences and providers, and readily accessible in an emergency. The advance healthcare directive provides the surrogate with your healthcare preferences, desires and wishes and is also known as a "living will."

3. Medical Privacy Releases

A medical information privacy release is needed to authorize medical practitioners to release HIPAA-protected medical information as authorized by a patient. A health information waiver allows authorized persons to communicate about patient care with medical personnel anytime. Transparency, communications and coordination in healthcare can be lifesaving to a patient.

4. A Will

A will determines who gets what when after someone's death and designates an individual to oversee the probate process. Wills do not impact non-probate assets which typically include: jointly titled bank accounts; retirement plans; life insurance policies; trust assets; and marital property. Generally, only non-homestead assets owned in a person's individual name pass under a will. Wills require strict legal formality with specific transfer terms. Non-probate assets, however, can transfer by the simple written designation of a beneficiary or joint owner.

Wills are helpful to distribute personal items like furniture, jewelry, tools, clothing, boats and cars, stocks, bonds and business interests. And a will nominates the personal representative who will act as the executor of the estate. Wills can appoint standby guardians for minors and disabled children, leave gifts to charity and provide for the care and custody of pets.

5. Avoiding Probate – Trusts & Enhanced Life Estates

Avoiding probate entirely is often the most cost effective option. Revocable or "living" trusts and Enhanced Life Estate Deeds, (a/k/a "Lady Bird" deeds) are helpful planning tools. Trusts are flexible in terms depending on their purpose and can be easily changed as life circumstances change. An enhanced life estate deed allows a Florida property owner to transfer property to others upon death without sacrificing control over the property during the owner's life. Unlike assets held in revocable trusts, assets transferred enhanced life estate deeds are disregarded by government healthcare agencies for eligibility determinations. Critical care must be taken in drafting trusts and life estates to preserve the homestead property tax exemption.

Estate planning can prevent high legal bills and unnecessary time delay in court while at the same time preserving families and assets. That makes a good future even better.

SPECIAL NEEDS FINANCIAL PLANNING:

10 TIPS FOR A SUCCESSFUL PLAN

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.

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. 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.

8. 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.

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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Time for Your Pre-Retiree Checklist?

Edward Jones
MAKING SENSE OF INVESTING

Like everyone, you want to enjoy a comfortable lifestyle when you retire. But a successful retirement doesn't just happen – it requires a lot of planning. And that's why it's a good idea to draw up a "pre-retiree checklist."

Such a checklist might look like this:

• Twenty years before retirement: Try to estimate a "price tag" for your retirement, incorporating a variety of factors – where you might live, how much you might travel, what activities you'll pursue, and so on. Then, assess if your retirement savings are on track to help you meet your expected costs. From this point, monitor your progress every year.

• Fifteen years before retirement: Although you're still fairly far away from retirement, you'll want to bring your goals and challenges into a clearer focus. For starters, try to establish a firmer target goal for the assets you'll need during retirement. Also, consider your legacy goals and start developing your estate plans, if you haven't already done so. You might also explore methods of dealing with potentially enormous long-term care costs, such as an extended stay in a nursing home. Solutions to long-term care may become much more expensive later in life.

• Ten years before retirement: At this stage, in addition to reviewing your target asset and spending levels, you'll want to get more precise about how much income you can expect as a retiree, whether through your investments or retirement accounts (such as your 401(k) and IRA), or through some type of part-time work or consulting. Maintaining an adequate income flow is extremely important, because you could spend two or three decades as a retiree, and some of your expenses – health care in particular – will likely rise during the later years. It's important to plan for health care and long-term care, given the costs and ability to qualify for coverage later in life.

• Five years before retirement: Re-evaluate your investment mix to help reduce the risk of having your portfolio vulnerable to a market downturn when you plan to retire. Generally speaking, stocks and other growth-oriented investments are more volatile than bonds and other income-producing vehicles. So, you may want to consider shifting some – but certainly not all – of your investment dollars from the "growth" portion of your portfolio to the "income" side.

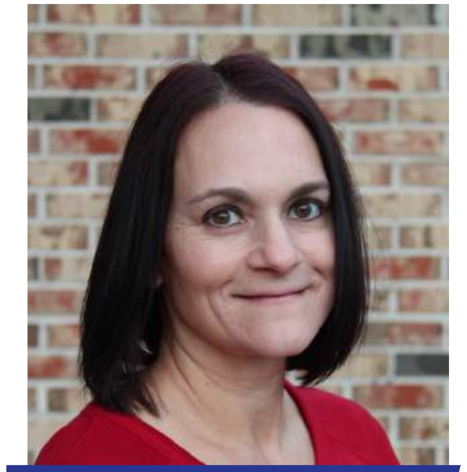
• Two years before retirement: This close to retirement, you'll want to pay particularly close attention to health-care expenses, so you may want to investigate Medicare supplemental policies. You'll also want to ensure that you have an adequate emergency fund to cope with unexpected costs, such as major home repairs. In addition, you'll want to think about whether you should take Social Security right away or if you can afford to wait until your monthly checks will be bigger.

• One year before retirement: Now it's time for some key decisions: How much can you withdraw each year from your 401(k), IRA and other retirement accounts without running the risk of outliving your money? Have you lined up your health care coverage? And, finally, are you really set on retiring in a year or could you delay retirement to improve your financial picture?

Stephanie R. Duffield, CFP®
Edward Jones Investments -
Financial Advisor

This checklist isn't exhaustive – but it can give you a good idea of the various issues you'll need to consider on the long road to retirement. And the sooner you start planning for that journey, the better.

SUBMITTED BY: Stephanie R. Duffield, AAMS Edward Jones Investments 4447 Commons Dr Suite 108 Destin, FL 32541 (850) 650-2616



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Family Wealth Advisor
Vice President | Branch Manager
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Hancock Whitney - Trust Officer
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Shelley Albarado, CFP®
Edward Jones Investments - Financial Advisor
2166 Hwy 30A, Ste C
Santa Rosa Beach, FL 32459
850.622.2112

Robert D DeMars, CLU®, ChFC®, LUTCF
New York Life Insurance - Financial Advisor
639 Loyola Ave Suite 1900
New Orleans, LA 70113
504.569.0561

Stephanie R. Duffield, CFP®
Edward Jones Investments - Financial Advisor
4447 Commons Drive Ste 108
Destin, FL 32541
850.650.2616

Mark Kaltz
Family Wealth Advisor - Vice President/Branch Manager
4458 Legendary Drive, Suite 300
Destin, FL. 32541
850.650.7303

Mark Dutram, CPWA®, CFP®
LPL Financial Located At First City Bank
Financial Planner
133 Perry Ave SE
Fort Walton Beach, FL 32548
850.244.5151

Lori W. Evers, Attorney
Chesser & Barr, P.A. - Attorney
1201 Eglin Pkwy
Shalimar, FL 32579
850.651.9944

Bart Fleet
Fleet & Smith, PA - Attorney
1283 Eglin Pkwy Suite A
Shalimar, FL 32579
850.651.4006

Cory Fosdyck, CFP®
Merrill Lynch - Financial Planner
34990 Emerald Coast Pkwy
Destin, FL 32541
850.269.7004

Kenneth Fountain
Fountain, Schultz & Associates, PLLC - Attorney
2045 Fountain Professional Court, Ste A
Navarre, FL 32566
850.939.3535

Denise Harris
EPCEC - Executive Assistant/Chapter Administrator
251.401.7936

Jason E. Havens, J.D., LLM, B.C.S., AEP®, TEP
Holland & Knight - Attorney/Accredited Estate Planner®
50 North Laura Street, Suite 3900
Jacksonville, FL 32202
850.425.5655

John W. Hawkins, Attorney
The Hawkins Law Firm - Attorney
PO Box 6945
Miramar Beach, FL 32550
850.601.4680

Kevin M. Helmich, Attorney
Beggs & Lane RLLP - Attorney
PO Box 5499
Destin, FL 32540
850.650.4747

Jane Kerrigan
Hand Arendall Harrison Sale LLC - Attorney
35008 Emerald Coast Pkwy Suite 500
Destin, FL 32541
850.650.0010

Bill Kilpatrick, J.D.
The Will Lawyer - Attorney
4476 Legendary Dr Ste 201
Destin, FL 32541
850.650.7299

Kaddie King, CPA
Carr, Riggs and Ingram - Accountant
500 Grand Blvd Suite 200
Miramar Beach, FL 32550
850.837.3141

Adam Kirwan, J.D., LL.M.
Kirwan Law Firm - Attorney
301 North Ferncreek Ave Suite C
Orlando, FL 32803
407.210.6622

Buz Livingston, CFP®
Livingston Financial Planning - Financial Planner
2050 W County Hwy 30A M-1, Suite 230
Santa Rosa Beach, FL 32459
850.267.1068

Andrew K. McDowell, CFP®, CDFA, Attorney
Arbor Wealth Management, LLC
Financial Planner
8955 Emerald Coast Pkwy Suite 104
Miramar Beach, FL 32550
850.608.6121

Deanna L Muldowney, CPA, AEP®
Carr, Riggs and Ingram - Accountant/Accredited Estate Planner®
500 Grand Blvd Suite 200
Miramar Beach, FL 32550
850.837.3141

Daniel C. O'Rourke, Attorney
Matthews & Jones LLP - Attorney
4475 Legendary Drive
Destin, FL 32541
850.837.3662

Christopher H Poate, CFP®
Wells Fargo Advisors - Financial Advisor
625 Grand Blvd, Suite 200
Miramar Beach, FL 32550
850.837.5366

Steven Quinnell
Quinnell Elder Law Firm - Attorney
913 Gulf Breeze Pkwy #8 Harbourtown
Gulf Breeze, FL 32561
850.432.4386

Hubert A Ross, CPWA®, CFP®, AEP®
Polaris Wealth Management, LLC
Financial Advisor/Accredited Estate Planner®
151 Regions Way Ste 2C
Destin, FL 32541
850.502.2440

Todd Sensing, CFP®
FamilyVest - Financial Planner
4300 Legendary Drive Ste 226
Destin, FL 32459
844.628.3185

Luke Smith, CPA
BluePoint Financial - Accountant
151 Regions Way Ste 6B
Destin, FL 32459
850.460.2222

Whitney Smith, Attorney
Fleet & Smith PA - Attorney
1283 Eglin Pkwy Suite A
Shalimar, FL 32579
850.651.4006

Lisa Jo Spencer
Lisa Jo Spencer, PA - Attorney
151 Mary Esther Blvd Suite 503
Mary Esther, FL 32569
850.226.4998

Mary Tinsley
Edward Jones Investments - Financial Advisor
11 Racetrack Road Ste B2
Fort Walton Beach, FL 32547
850.301.0112

Matt Turpin, CPA
Carr, Riggs and Ingram LLC - Accountant
500 Grand Blvd Suite 210
Miramar Beach, FL 32550
850.837.3141

Jason Walker, CTFA
Regions Bank - Trust Officer
PO box 12790
Pensacola, FL 32591
850.444.1432

Andrew Wheeler, Attorney
The Wheeler Firm PA - Attorney
1992 Lewis Turner Blvd
Fort Walton Beach, FL 32547
850.613.6923

James D. Wright, CPA, J.D., LL.M.
Carr, Riggs & Ingram LLC
Attorney/Accountant
4502 Hwy 20 East Suite A
Niceville, FL 32578
850.897.4333

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Welcome by the President.

9:00 - 9:50 AM ESTATE PLANNING
It's more than just a Will.

10:00 – 10:50 AM MEDICAID AND BEYOND
What you need to know as you approach your Golden Years.

11:00 – 11:50 AM ASSET PROTECTION
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12:00 – 12:50 PM
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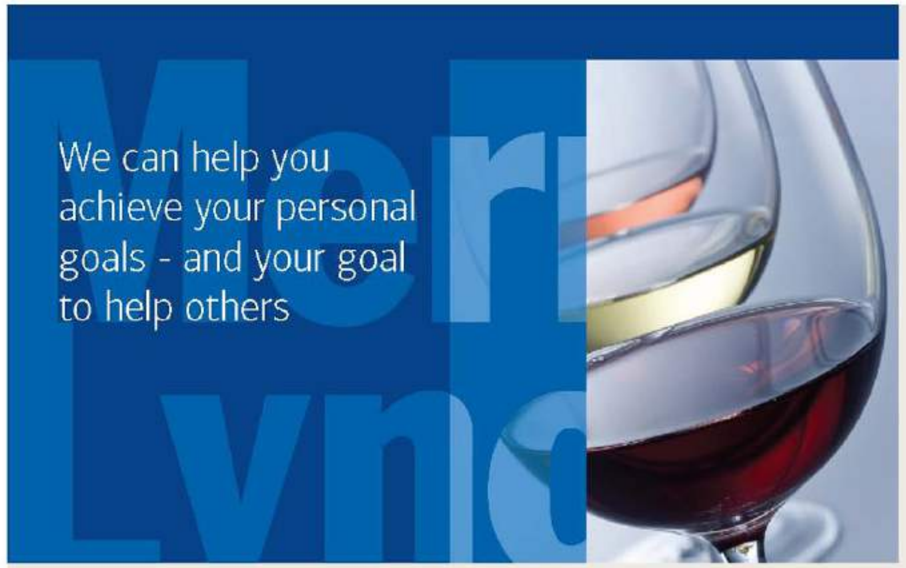

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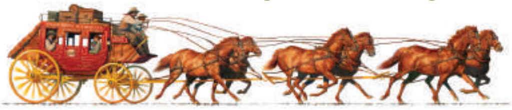

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