



Jackson & Campbell
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TRUSTS & ESTATES
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Trusts & Estates

Law Alert

PLAN NOW TO PROTECT YOUR ASSETS: A PRIMER ON EFFECTIVE ESTATE PLANNING

With the economy of the Washington, D.C., metropolitan area dramatically altering the income levels of many of its residents, effective estate planning management is becoming more crucial than ever. Yet many people are failing to consider all the basics.

The most fundamental estate-planning tool is an up-to-date will that reflects your current life situation. This basic instrument transfers your assets to other individuals at the time of your death, serves to minimize the tax burden on your estate, and, if applicable, provides who will be named as guardian of your minor children. Keep in mind that your will should be updated every few years, and should be revised to reflect any major life changes, such as marriage or the birth of a child. Indeed, in some states, a child born after a will is signed serves to revoke the will itself.

In your will, you may want to consider the use of testamentary trusts, which only become effective at the time of death. Such trusts are normally used to provide lifetime income for surviving loved ones or other individuals, and can provide valuable estate tax advantages. If your property is located in other states, however, ancillary probate proceedings might be required.

To avoid the problems and costs of probate sometimes associated with a will, some individuals turn to a living trust, or what is called an "inter-vivos" trust. Such a trust must be funded by transferring the title to all of your assets to the trust. The major benefits of a living trust are that it may be amended or revoked at any time during your lifetime and that it ensures privacy, since it is not a public document that will see the light of day. Moreover, use of a living trust can avoid the imposition of a court-ordered conservatorship to take care of both you and your assets if you suddenly become incompetent to do so yourself. Nevertheless, trusts do pose some expense in their establishment and administration.

You may also want to consider signing what is known as a Durable Power of Attorney (POA). With such a document, you can authorize another individual to act on your behalf in a number of personal financial situations, including banking or business transactions.

The information contained in this newsletter does not constitute legal advice. Consult a legal professional to discuss the specific facts relevant to your situation.

Disability or incapacity has no effect on this type of POA. Make sure, however, that the POA expressly addresses your life insurance and investment transactions.

An alternative is a Springing Power of Attorney, which only becomes effective -- or "springs" into action -- when you are disabled. The drawback, however, is that there must be a formal declaration of disability before this type of POA will be recognized. Disagreements over the degree of incapacity could lead your relatives straight back to the courtroom you sought to avoid when you originally signed the POA.

Another variation on the POA is the Advanced Medical Directive or Health Care Power of Attorney, which allows an individual to address the difficult medical, legal, and ethical issues that might arise near the end of life. In essence, it allows you to make fundamental choices concerning the care and treatment you will or will not receive at that time. For that reason, it is essential not only to prepare

a comprehensive medical directive of your wishes in advance of the need but also to appoint someone who will advocate on your behalf when you cannot. Like other trusts, it can be revoked or modified at any time, assuming you have the capacity to do so.

Whatever your assets, you must calculate your net worth. If you are married, have a properly executed will, and have assets worth more than \$675,000, you and your spouse can each pass on that amount tax-free-by means of a "unified credit" -- for a total of \$1.35 million. By 2006, that figure will increase, so that individuals will be able to pass on \$1 million, and married couples \$2 million, in assets.

To ensure that your funeral wishes are known and specifically carried out by your heirs, draft a letter of specific instructions. Such a letter should also identify the location of your important papers, such as your will and life insurance policies. You may also want to consider pre-arranging your funeral, freeing

loved ones from both the expense and the anxiety of having to make choices for you at a difficult time. Funerals can be expensive undertakings; by pre-funding your funeral costs, your family won't be subjected to any undue financial burden.

Finally, the importance of adequate life insurance cannot be underestimated. Such insurance can help ensure that your assets won't be subject to a "fire sale" to satisfy any outstanding tax obligations. This is especially important where a business is involved. Insurance policies owned by your partners can be crucial in keeping the business afloat or buying out your heirs. Indeed, policies should play an integral part in any buy/sell or other business continuation arrangements.

Are your affairs in order? At Jackson & Campbell, P.C., our attorneys can help you put in place the estate planning tools you need, tailored to your specific financial situation.

Do you know of others who should receive the Trusts & Estates Law Alert? If so, please complete the form below and fax to: 202-457-1678, attn: Candace Brosowsky, or visit our on-line library at www.jackscamp.com.

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