

# Six-Step Checklist Toward Successful Estate Planning

Compliments of EstatePlanning.com and The NAEPC Education Foundation

## 1. DEFINE YOUR GOALS

What do you want to happen to your assets in the event of your death or disability? If your beneficiaries predecease you, who are your alternate selections? How will your assets be distributed, and when will these distributions take place?

Decisions on distribution of your estate assets should take into account the size of the estate, the ages and abilities of your children, and your personal desires. For example, a distribution to children over time might consist of 10 percent of the estate at age 18, 25 percent at age 21, 50 percent at age 24 or upon completion of college, and the balance at age 30.

Choose your appointees for important roles: Who will be your executor and, if applicable, trustee and/or guardians? It is advisable to list at least a first and second alternate for each appointment in case your first choice is unwilling or unable to serve.

If you have children who are minors, the appointment of a guardian is probably the most important decision you'll make. With the court's approval, this person, or persons, will raise your children. Consider appointing a family member and spouse, or another close couple who'll care for your children the way you would want. You may want to consider listing multiple executors, trustees and guardians to serve together in handling the details of your estate. This can provide a check-and-balance system for the appointees and help them avoid oversights or misappropriations. Consider appointing family members, friends, professionals, advisers and/or trust companies for this position.

There is some risk here: If these people disagree and have problems, they can each be represented in court by counsel paid for by your estate, so be very careful in making your selections.

Living trusts have become popular because less administration is required in comparison with a will. Be aware that having a living trust does not eliminate the need for a will and administration at either the first or second spouse's death.

To get the benefits of the trust, certain details must be attended to, and this is the job of your appointees. For example, leaving a trust for the surviving spouse requires that the trust be funded properly and in a timely manner at the first death, or major tax benefits can be lost.

Is estate privacy an issue for you? Do you want your estate to be public record upon your death? Do you have any special gifts you want made to charity? Do you want an elderly parent or friend to be financially cared for? All of these circumstances should be noted in your plan.

## 2. GATHER & ORGANIZE YOUR DATA

There are three basic tasks to be accomplished:

- Review and update your financial position.
- Review how you hold title to your assets. Is it consistent with your estate plan?
- Review your beneficiary selections. Are they aligned with your estate plans?

Did you know that how you hold title to assets has a higher legal priority than your will? For example, if you and your best friend held title to an investment club account as joint tenants and you died, the property would

revert to your friend even though you had willed your interest to your spouse.

### **3. ANALYZE YOUR SITUATION**

Start by determining your current net worth, assuming your death occurred today. This can be done by totaling your current assets and liabilities, and adding the value of any life insurance.

Try sketching a picture or flow chart of your existing estate plan. Review your appointees:

- Executor
- Guardian of the Person/of the Property
- Trustee
- Power of Attorney - Property Management
- Advance Health-Care Directive or Health-Care Power of Attorney

#### **ESTATE PLANNING ALERT:**

On January 2, 2013 President Obama signed the American Taxpayer Relief Act (ATRA) into law. Many of the temporary provisions from prior tax acts were made permanent ending much confusion and speculation.

Federal Estate, Gift and GST Taxes – The estate tax, gift tax and generation skipping tax exclusion amounts are all set at \$5 million and indexed for inflation after 2011. For 2013 the exemption amount is \$5.25 million. The top estate, gift, and GST tax rate is increased from 35 % to 40%.

Portability – Beginning for taxpayers dying after Dec. 31, 2010 the estate tax exclusion becomes “portable” between spouses. This means that the surviving spouse’s exemption is increased by any exemption not used at the first spouse’s death. However, this is not automatic; it must be elected by timely filing a 706 estate tax return.

Carryover Basis – For most capital assets transferred at the time of death the beneficiary receives a “stepped up” basis to its fair market value at the date of death.

Check with your financial advisors for updated information.

### **4. DEVELOP YOUR STRATEGIES**

With the assistance of your estate planning advisor(s), identify the legal documents that need drafting or make any necessary adjustments to existing documents. Determine any other actions that must be taken for your wishes to be carried out.

### **5. IMPLEMENT YOUR PLAN**

Do what needs to be done -- i.e., create new wills, trusts and powers of attorney, adjust title to your properties, change alternate beneficiaries of retirement plans and life insurance policies to trusts.

### **6. TRACK & MONITOR YOUR PROGRESS**

Check your estate plan annually or any time there are changes in your family situation or net worth. Use your financial planning calendar to schedule your next review.