BRIEF MESSAGE ABOUT ESTATE PLANNING

Most people with assets or a family should prepare and sign a will. You may or may not need an estate plan depending on the size of your estate and other factors. Learning more about federal and state estate taxes will help you decide what type of estate planning is right for you and your family. Estate plans can also minimize the probate process and its expenses, delays and loss of privacy. Estate plans can also be used to plan charitable giving and business succession.

Estate planning can be a neglected part of financial planning. It is easy to delay answering uncomfortable questions such as "What happens to my assets and my loved ones when I die?" It is no surprise that roughly half of all Americans do not have a will, and even fewer have an estate plan.

How many of us could benefit from an estate plan? For that matter, what is an estate plan, and how does it differ from a will?

A will may be a relatively simple document that states your wishes and directions for distributing your property; it may also include instructions regarding the care of minor children. An estate plan goes much further than a will. Not only does it deal with the distribution of assets and legacy wishes, but it may help you and your heirs pay substantially less in taxes, fees, and court costs. You should always consult an attorney and/or tax professional to discuss your unique situation to determine what may be a best approach for you.

Most people with assets or a family should execute a will. However, not everyone needs an estate plan. The decision is a personal one and depends on more than the potential size of an estate. Consider the following:

The arrival of children

A number of major life events what type of estate plan someone needs. The most significant life event is the birth of a child. Consider a young married couple having their first child. How would the child be provided for if either parent (or both) were to die?

A will can be used to name the guardian(s) of your minor children. But, while naming a guardian is important, it's just one step. In addition to a guardian who assumes responsibility for the care and custody of the minor child, a conservator (or "guardian of the estate") may also be necessary to manage any assets the minor child may inherit. Typically, a conservator manages a child's assets until she becomes an adult; the age of majority in a given state is set by state laws; generally, the age is 18 or 21.

Some assets can be distributed by an institution, such as a bank or brokerage firm, that holds them, so long as the owner has provided the proper instructions to the financial institution and has named the beneficiaries who will receive those assets. If the owner also has a will, the

directions in the will should be consistent with the directives provided to the financial institutions. For example, if a beneficiary is named in a transfer on death (TOD) account at a brokerage firm, or payable on death (POD) account at a bank or credit union, the account can usually pass directly to the beneficiary without going through probate. The asset would bypass a will. In some states, a similar beneficiary designation can be added to real estate, on the deed to a property, allowing that asset to also bypass the probate process. For assets that do not have a beneficiary designation, the will is the document you use to name who will receive such assets, and it can detail any related special instructions.

Although a will is a cornerstone of estate planning, some people may need something more extensive. In some situations, a trust may be beneficial. Trusts can be used for most assets, including financial assets, retirement assets, real estate, and life insurance. Once assets are placed in a trust, they can be used for the benefit of the minor, and a professionally managed trust may produce better results than an account entrusted to a non-expert guardian who might mean well but lacks the knowledge or experience to properly invest and protect assets.

Estate size and state of residence

Another important factor is the size of the estate. Does the value of the estate exceed the estate tax exclusion, the amount that can be given before the estate owes estate taxes? In 2024, for a legally married couple, generally each spouse has a $13.61 million federal estate tax exclusion. At the death of the first spouse, their exclusion could be taken on by the surviving spouse, allowing the surviving spouse to exclude $27.22 million (or more, because the surviving spouse's exclusion will be indexed for inflation) from federal estate taxes. A thorough estate plan would also include provisions addressing what would happen in the event of a simultaneous death.

Estate planning strategies have been made more complicated in recent years by the introduction of state-level estate taxation. Your state may impose either an estate or inheritance tax, or both.

Also consider other issues around how best to manage the intergenerational transfer of assets. For example, if children are not old enough or mature enough to handle a large inheritance, an estate plan can address this by making provisions through a trust.

Probate and privacy concerns

Another good reason to have an estate plan is to minimize the probate process and its expenses, delays, and loss of privacy. Among the concerns with probate are:

- **Loss of privacy:** Anyone can access information from the probate court. For example, relatives and creditors could get your probate records to challenge your will.
- **Expense:** Probate fees can be quite substantial, even for the most basic case not involving any conflict. Attorney's fees and court costs may possibly take up to 5% of an estate's value.

- **Delays:** The average uncontested probate may possibly take longer than a year. With proper planning, these delays and costs, and the loss of privacy, can often be avoided.

Preparation for becoming incapacitated

Many people think of estate planning as a process that needs to be done to prepare for what happens when you pass away. However, a critical component of estate planning includes documentation in the event you become incapacitated.

A financial power of attorney allows you to name someone to help with your financial affairs in the event that you are unable to manage them yourself. This can be effective immediately upon signing or upon some future event. A power of attorney that becomes effective later is called a "springing power of attorney." This type typically goes into effect once you become incapacitated. A power of attorney for health care (also known as a health care proxy), along with an HIPAA authorization and living will, allows someone to make health care decisions on your behalf. Both of these should be "durable," which means they remain in effect during a period of incapacity.

Philanthropic goals

If an estate consists of sizable assets and the owner has a desire to give to charity, there are a number of ways to incorporate those philanthropic goals into an estate plan. While charities can be named as beneficiaries in a will, it may be more advantageous from a tax perspective to leave non-Roth IRA assets to the charity and your other assets to individuals.

One possible option would be to establish a charitable lead trust (CLT). Upon termination, if the CLT were properly established, the remaining balance would then go to the grantor's beneficiaries. A properly established charitable remainder trust (CRT) would do the reverse, giving beneficiaries an income stream while the grantor (or the person who establishes the trust) is alive, with the remainder going to the grantor's favorite charity. Either option—CLT or CRT—can have multiple benefits, among which are:

- Reducing or eliminating capital gains tax on assets that have appreciated
- Claiming income tax deductions for charitable giving
- Reducing estate taxes
- Giving to your favorite charity
- Giving to your designated beneficiaries

An attorney or tax professional can help you sort through the options that might be right for you.

Business succession

If you own a business, have you considered how best to plan for the business once you have passed away? If you plan to keep it in the family, consider creating a structure that makes it easier to transfer the business's assets to other family members, such as a family limited partnership or a family limited liability company.

There are many options. Your attorney or tax professional can help you select one that is appropriate for you in light of your specific situation.

Life stage

Engaging in estate planning can be an important activity at various points throughout your lifetime; there is no ideal age at which to begin the process. Certainly, new parents will want to consider their child's welfare, and plan appropriately. As children grow, your financial life becomes more complex, and as your assets and needs grow and change, your existing estate plan should be reviewed to make sure it still meets your current needs, and that any future needs are anticipated.

Special circumstances

Two of the most common special circumstances that may affect estate planning decisions are blended families and concerns about families with special needs. Of course, there may be other factors that affect a particular situation.

Blended families can make estate planning more complicated. For example, a parent may want to leave a different inheritance to biological children than to stepchildren, or the parent may want to protect their biological family's inheritance in the event that a spouse remarries. A solid estate plan can help prepare for these and other scenarios. Consult an attorney to discuss your particular circumstances.

Regarding disabilities, there are specific trusts that are set up for the benefit of a beneficiary who is disabled, structured in a way that allows the beneficiary to continue to qualify for public assistance, such as Social Security Disability Insurance. Again, an attorney can help establish a trust that will meet your specific situation.