I wrote the booklet back in 2001 so some of the numbers may have changed with regards to the estate exemption. However, the rest of the booklet is still very appropriate and one I think is worthwhile for everyone to read.

# WHY YOU WANT ESTATE PLANNING!

Estate planning is the process of establishing a strategy to give what you own, to whom you want, when you want, with as little interference and cost as possible. Every estate is planned – either by you or by the state and federal governments.

But many people do no more estate planning than creating a will. Unfortunately this is the bare minimum of what a successful estate plan should have. And if your net worth is over $675,000 ($1,000,000 in 2002), then your estate could be subject to very hefty estate taxes, meaning you leave even less to your heirs.

Everyone knows you can leave all your money to your spouse estate tax free. And most people feel their obligation to their spouse is the only one they have. Why spend your hard earned money now so that your kids can have more later? Particularly since you may actually need this money at some point.

And what about the fact that the federal government has just passed a law repealing estate taxes? Won’t this help?

In this booklet, we will show you reasons you should consider estate planning in spite of the above reasons for avoiding it.

Let’s get started…

**WHY DO ESTATE PLANNING?**

Estate planning is needed for two different times in your life. At death and at incapacity. Hopefully neither will occur, but in reality we know that death is a guaranteed event. However, incapacity is something that should be planned as well even though it may never occur.

Take the story of John and Mary. John had always taken care of the family finances and Mary knew very little about how to handle investments. John’s son had recently started up a high tech business. He had asked John and Mary to invest in his business. John did not feel they had enough money to warrant an investment this risky and as much as it pained him to do so, had to turn his son down.

However, not long after that, John came down with Alzheimer’s. It wasn’t long before John could no longer make responsible decisions regarding their finances. John’s son petitioned the court to declare John mentally incompetent and have him take over John and Mary’s investments. The court granted the petition. John’s son immediately invested a large chunk of their money in his startup business. Unfortunately, the business failed, and John and Mary were out a large portion of their retirement dollars.

This situation could have been avoided and John’s wishes taken into account, even with Alzheimer’s, if proper estate planning had occurred.

The other time to do estate planning is of course at death. The are six major reasons for doing estate planning:

# TO DIRECT WHO RECEIVES THE ASSETS

The first of course is the most obvious and that is to direct who receives the asset. But you can also control when they receive it as well as what they do with it after they receive it, if you so desire. As an example, there was a couple with an estate of $3,000,000. When they died they left the estate equally to their four children. However, one daughter always had a problem holding a job for any length of time and had had to borrow money from them on several occasions. Instead of leaving her $750,000, they chose to have this money invested for her and have her receive a monthly income from it. Otherwise they were afraid she would blow the money and have nothing to show for it later in life.

You can even control when they receive it. Another couple left money for the grandkids. It was designed to pay for their grandkids college and they were not allowed to receive it until college time. If for some reason the grandkids chose not to go to college, the money was not to be distributed to them until their 30th birthday.

# REDUCE TAXES FOR YOUR HEIRS

The second reason is the one you hear most about and that is to reduce taxes. Estate tax rates, even when lowered by the estate tax repeal of 2001, are still very high. While retired people love their country, most feel it’s double or triple jeopardy. They paid taxes when they earned it, they paid taxes when they bought, and then they have to pay taxes when they die. It does seem kind of unfair.

The problem people have is paying extra in legal fees and life insurance costs in order to be certain their heirs get more after their gone. However, there is most often a tax benefit right now that gets overlooked. Most estate planning techniques offer an immediate tax benefit while you are still alive in addition to saving your heirs lots of taxes.

# REDUCE YOUR ANXIETY TOWARD DEATH

The third reason is probably one you are not aware of. And that is estate planning reduces your anxiety toward death. One of the things that always seems to come out of the estate planning process is that a personal reconciliation toward death is achieved. The fear and anxiety toward death is greatly reduced when you know your loved ones are going to be taken care of in the manner you desire. After all, the person doing the estate planning gains absolutely nothing (that we know of anyway) at their own death. Yet the estate planning process offers great psychological satisfaction for most people. Think back on when you established your latest will. Wasn’t there peace of mind afterwards?

We know death is just another part of life. Yet we often resent it because, perhaps, it is not an event we can control. Yet, even though death cannot be abolished, we can control certain aspects that give us control even after we are gone. Knowing this can give us a great peace of mind and help mentally prepare us for the death we know will ultimately occur.

# FREEING UP EMOTIONAL ENERGY FOR LIVING

The fourth reason is similar to number three. Estate planning often involves the relationship between life and death. It is not something we really want to face. But once that fear has been faced and met head on, we usually feel much better about having done it. This frees up a great deal of emotional energy that we can spend on living. Death becomes less fearsome. Knowing that the ones we love will be taken care of after our death leaves us the ability to focus on moving forward into our life after death experience. Personal relationships become clearer and often take on new meaning. Conflicts are often cleared up with others. The remaining days of our life becomes much more meaningful.

Planning how to leave your assets to others will often provide you with great insight toward your relationships and how they can be improved or if they should be discarded. For most people this makes them feel much better and provides them with extra energy for living.

# A MORAL IMPERATIVE

Planning one’s estate is a moral imperative. What I mean by this is that it is your moral responsibility to plan your estate, just as it was your moral responsibility to care for your children. Did you ever sell a house and have to move out? Do you remember your motivation for cleaning the house even though you wouldn’t be in it any longer? You did so because you knew you were morally bound to provide the new owners with the product they thought they were buying.

This is the same feeling you will have with estate planning. Knowing you have met your moral responsibility with your family to leave with your affairs in order and a plan for the distribution of your assets will make you feel much more responsible and a much more moral person.

And trust me on this. Your family or heirs will appreciate it. I know when my own father died, just knowing that all the documents we would need to settle his estate and get him buried were all in one place, made dealing with his death so much easier. It also made me appreciate him so much more that he cared enough to do this for us. In one place he had his birth certificate, his marriage certificate, his will, his life insurance policies, his social security number, his military discharge papers, his stock and bond certificates, his pension information, his Medigap policy, the deed to his house, the titles to all vehicles and RVs, and his insurance policies on all the vehicles and house. This made getting everything transferred to my mother extremely easy and allowed us all to put forth our concentrations on other issues. My mother who couldn’t help worry about what her life would be like without her lifelong companion, had her fears and worries greatly reduced due to the planning process that had already taken place. She knew exactly what she would do in such a situation which made dealing with it so much easier.

## HAVING LIFE BEYOND YOUR OWN

There are only two ways to have life beyond your own (not counting religious ways). One is to have children who will carry a part of you with them and possibly pass part of you on to their children, etc. The other is to have your money or your assets to continue to work on your behalf – even after you are gone. I guarantee you that your grandchildren (or even great-grandchildren) will think very dearly of their grandparents when they find that their college has been paid for through their grandparent’s estate. Leaving assets to charity often provide a memorial for you that could last for hundreds of years.

Have you ever visited the Lincoln Memorial in Washington D.C.? If you have, then you will remember the feeling of what a great man he was and what he did for this country. Is he really dead? Yes, but his spirit continues on and is remembered by millions of people every time his memorial is visited. While you and I cannot hope for that kind of memorial, assets can be left in such a manner as to remind others of our spirit and generosity that will allow that spirit and generosity to continue on even after our death.

## WHY DO PEOPLE AVOID ESTATE PLANNING?

Usually it is because they don’t know what they want to do. They don’t know how much to leave for their spouse, if any should go to the kids now or leave it after their spouse dies, they don’t know whether they want to put restrictions on when and how the beneficiaries can get it, they don’t know if they are going to run out of money and therefore are often afraid of spending any money on estate planning expenses. And if you are like most people, no decision is going to be made until you know what you want first.

Estate planning will take you through this discovery process to help you identify the issues and to start taking steps to determine what it is you want your assets to do for you after your death.

## WHAT WILL ESTATE PLANNING DO FOR YOU?

There are seven major areas of estate planning.

1. Liquidity – estate planning can provide the necessary liquidity to prevent assets having to be sold at fire sale prices. Taxes on estates are due in nine months after death and must be paid in cash. Often in order to raise the money for taxes, the executor is forced to sell property very quickly forcing him to take low offers. Take the example of Farmer Brown. He intended to leave his 100 acres of his farm to his wife and wanted to leave another 30 acres to each of his three kids. Unfortunately in order to pay the taxes on the estate, the kids had to sell off their acreage. And because they had to sell quickly, they did not get a very good price for their land. This was never what Farmer Brown intended.
2. Improper disposition of assets – when the wrong asset goes at the wrong time to the wrong person, the results are often disastrous. For example, picture the proceeds of a $400,000 pension or a $150,000 life insurance policy going to a 21 year-old child.
3. Inflation – Often some estate planning is done only to see the value of the assets rise considerably due to inflation. Estate planning needs to be reviewed periodically to be certain changing conditions don’t affect the estate plan.
4. Inadequate income or capital at retirement, death, or disability – cash demands for living expenses must be computed accurately or otherwise this drains what cash is needed for estate liquidity purposes.
5. Value – this one pertains mostly to those people who own businesses or other assets that may fluctuate widely in value. There is a need to stabilize and maximize these values.
6. Excessive transfer costs – depending on the assets and the states involved, the cost of probate can get very expensive and a great deal of money can be lost to probate expenses. I am not going to discuss the probate process in this booklet, however if you would like to know more about this process, how lengthy it is, and what the potential dangers and costs are, please contact me and I will be glad to give you this information.
7. Special problems – do not overlook the extreme importance of planning for the spouse or child who cannot, should not, or does not want to handle a family business or large investment portfolio, or for a handicapped spouse or child. The desire to support charities is also a strong planning need.

## TOOLS AND TECHNIQUES

The tools and techniques available for estate planning are way too numerous to mention in a booklet of this size. There are at a minimum 50 different tools we could use. Plus it seems like there is a different legal tool available for each person’s unique situation. So what might be the right tool for you is going to be totally different from the next person.

However, very briefly, I will list the six most common techniques used in estate planning:

1. Will
2. Joint Ownership
3. Gifts
4. Beneficiaries
5. Living Trusts
6. Do Nothing

Obviously, some of these techniques are appropriate and some or not. But these are the ones most commonly used by individuals.

THE 10 MOST COMMON ESTATE PLANNING MISTAKES

Perhaps you have already done some estate planning. In that case I am going to list the ten most common mistakes made in estate planning. Are you making any of these? Is it time to have your estate plan reviewed?

1. Improper use of jointly held property – there are a number of problems here ranging from increased liability issues to paying higher income and estate taxes. Also often a lack of control over the assets can be an issue.
2. Improperly arranged life insurance – inadequate amount, insuring the wrong person, proceeds payable to the wrong beneficiary or at the wrong time. These are just a few of the problems life insurance can create if not handled correctly.
3. Lack of liquidity – most people don’t have a clue as to the amount of cash that is necessary to settle an estate. Most larger estates will be subject to federal estate tax, state death taxes, federal income taxes, probate costs, administration costs, payment of maturing debts, maintenance and welfare of family, payment of specific cash bequests, generation skipping taxes, and possibly funds to continue operation of a family business or farm.
4. Choice of the wrong executor – obviously this can be disastrous as the administrator of the estate must perform a number of legal and financial duties, often without compensation and sometimes at great personal risk.
5. Will errors – a will should be updated at the birth, adoption, or death of a child, upon marriage, divorce, or separation of anyone named in the will, upon every major tax law change, upon a move to another state, on a significant change in income or wealth of either the will maker or a beneficiary, or on any major change in the needs, circumstances, or objectives of the will maker or the beneficiaries.
6. Leaving everything to your spouse – if your estate is over $675,000 (increasing to $1,000,000 in 2002), this is not always the best strategy. Plus sometimes the spouse has not had the necessary experience at dealing with a $1,000,000 estate. All you are doing then is setting them up for financial losses.
7. Improper disposition of assets – this happens most often when contingent beneficiaries are not designated. For example, one man left his classic Corvette to his brother. His brother died in the same car accident as this man and since no contingent beneficiary was named, the Corvette went to his brother’s 18 year old son.
8. Failure to stabilize and maximize value – this is primarily business owners that do not leave a good plan for the transfer of the business. The value of the business can fluctuate dramatically before the transfer takes place. Good estate planning can and should prevent this. For example, two brothers owned and operated a car repair business. When one brother died, the other just assumed he would buy out his brother. However, the value of the business had not been pre-established and the second brother did not have the funds needed to purchase the business. In order for his brother’s wife to be take care of, he had to sell the entire business and switch jobs.
9. Lack of adequate records – this one is kind of obvious yet it is amazing at the amount of money executors have to spend in order to obtain duplicate copies of titles or to locate insurance policies, etc. I have seen people spend hours searching for titles to cars, etc.
10. Lack of a master strategy game plan – do it yourself estate planning is the closest thing to do it yourself brain surgery. Unfortunately this practice is far too common. Most people who do it themselves will only complete part of the needed plan and usually will make an error somewhere along the way which only complicates things and makes matters worse. However these people are still miles ahead of the people who have done nothing.

## REPEAL OF THE ESTATE TAX

It was called the Economic Growth and Tax Relief Act of 2001 (EGTRA). Unfortunately this was one of the most complicated and confusing tax law changes ever written. Why doesn’t that surprise you? In a nutshell, it began phasing estate taxes out starting in 2002 and completely phasing it out in 2010. The changes are minimal in the first year but change gradually over the next eight years with the biggest changes coming toward the end of the time period.

Unfortunately I cannot list the exact changes in this booklet as it would consume entirely too much space.

In 2010, the estate tax will be completely done away with. However, as the law currently stands, it will be back in its present form in 2011. So if you want to die estate tax free, do so in the year 2010.

However, while the capital gains tax is gone in 2010, the changes in the step up basis that coincide with the elimination of the estate tax, will result in much higher capital gains taxes for most people. So the bottom line is that the estate tax is simply changing its name.

However, for those people with estates below the $1,000,000 level, you might be able to get away with not paying any estate taxes. However, this does not negate the need for estate planning as most of the reasons for estate planning really have nothing to do with estate taxes.

## SUMMARY

What do people want from estate planning? They mostly want independence and control. They are looking to give what they have to whom they want, the way they want, when they want, with the lowest possible expense and not have to worry about running out of money. They want control over their assets at all times before they die and they want to be sure they maintain their independence for the remainder of their life.

This is why you need both a financial planner and an attorney who specializes in estate planning. The financial planner will help to make sure you will not run out of money and can recommend tax efficient methods for maintaining control over your assets. While the attorney must complete the legal forms, he/she may recommend the use of a financial product but not have a clue as to where to find the best financial product to meet that need.

At Clifton Myers Financial Advisory we will provide the financial planning side of estate planning. We will work very closely with an excellent attorney who specializes in estate planning who can provide the proper legal documents. Together we will establish you an estate plan that will meet your objectives. Even if you are not certain what those objectives are at this point.

When should you plan? The answer is simple. Before you die. If you don’t know when you are going to die, then the answer is as soon as possible. Unfortunately, estate planning does no good after you die, as your heirs will be forced into the government written default estate plan. Do you really want the government involved in what happens to your assets?

At the very least, call us and let us review your will. We can then determine then if more meetings are needed.

This booklet is not comprehensive in nature. There are quite a few more estate planning issues and questions you may have. We were only hoping touch on a few to try and motivate you to review your estate plan.

Hopefully, out of this booklet, you have gotten some good reasons as to why you should consider estate planning. Yes, we all know that after your dead you will have no reason to care about what happens to your assets. But your heirs do care and you do care about them. If you haven’t taken any action on estate planning, it is probably because you want to make sure you don’t run out of money first. We understand that will be your number one concern and are prepared to show you how to deal with that. Please call us today as we can help.