

PRESERVING YOUR LEGACY: YOUR WILL IS FOR THE LIVING

Successful estate planning takes not one generation, but two. The first generation needs to make a clear, sensible plan and the second needs to be involved in that plan.

The best estate strategies tend to be made with the advice of a financial adviser and an estate planning attorney. Without proper planning, estates can be eaten away by bad planning in ways ranging from the simple to the complex. They include:

■ **Failure to leave a will:** Most Americans know what a will is, and its importance, but many have not taken the time to create one. The estimated numbers of Americans without any kind of will is staggering—between 60 to 70 percent. Yet without a will in place, some or all of a person's estate may be transferred to Probate Court with a complete stranger assigned the task of deciding the future of the deceased's assets. Another issue to consider is that all probate records are available to the public. If you have not already done so, contact an estate planning attorney to discuss your wishes and develop a will. If your will is over five years old, it may be time for it to be reviewed and updated.

■ **No plan for incapacity:** Most individuals think of a will as a document of instructions upon one's death. Many times, however, a will is needed in times of disability. An 80-year-old grandmother sinks into dementia. A 30-year-old father of twins is left in a coma after a car accident. Anyone can be left incapacitated at any age without clear directions for relatives or health care providers. Besides being costly, this creates great emotional hardships for loved ones. Advance health care directives designate health-care decision makers and delineate their powers, leaving very precise instructions about life support and other treatment options. Some individuals emphasize written directives by videotaping themselves giving these instructions. Powers of attorney can

also be created to assign persons to make important financial decisions.

■ **Failure to coordinate or update**

beneficiaries: Anyone who has struggled to settle a parent's estate is very likely to have had problems with beneficiary designations on retirement, investment, insurance policies, and other financial accounts. Most think that a beneficiary designation occurs at the creation of the will—not true. In most cases, beneficiary designations listed on accounts supersede what is requested in a will. Beneficiary designations should be reviewed every few years for accuracy or when a major life event requires a change.

■ **Failure to inventory:** If someone dies or becomes incapacitated, heirs may find it difficult to navigate their bookkeeping system or find key documents and investments left inside the house, in safe deposit boxes, or elsewhere. Financial advisers can provide a centralized system of organization for clients by keeping a separate index of those materials to help guide family members and heirs through a serious illness or estate settlement. Failure to find key documents may lead to frustration, long delays, or severe tax consequences later.

■ **No attention to special situations:** If both parents die, how will substantial assets or life insurance proceeds be managed for minor children, and who will be the children's guardian? If there is an adult child with a disability, is a Special Needs Trust or other directive in place? If a single person dies without instructions for his pet, who will get Fido? An individual's last wishes are unique and should be considered as an important part of the estate planning process. Heirs should insist on these provisions so they can distribute assets with maximum speed, and minimum disagreement and cost.

■ **No financial Power of Attorney or inadequate joint name provisions:** An incapacitated individual not only needs someone designated with the proper authority named in his or her written health care directives, but he or she also needs that person to have access to funds. To provide for this, a durable financial power of attorney can be filed with the account custodian, or joint names can be listed on the accounts so bills can be paid. (Naming a joint owner to an

account may cause negative consequences, so consult your legal, financial, or tax professional before doing this.)

■ **Failure to update:** Review an estate plan whenever there is a major life transition—such as a marriage, birth of a child, a divorce, or a change in permanent residence. Enlist a legal and financial planning professional in this effort. Both perspectives are necessary.

This column is produced by the Financial Planning Association, the membership organization for the financial planning community, and is provided by the professionals at KING Wealth Management Services, local members of FPA.