

Back To The Basics Recap - Do I Need An Estate Plan?

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With the close of the summer quickly approaching, kids going back to school, and life going back to “normal,” we thought it might be a good time to go back to the basics and discuss why EVERYONE needs an estate plan. While the reasons a person or family needs an estate plan are vast and varied, it is a FACT that everyone needs an estate plan - period.

Now, don't get us wrong, your estate plan may look nothing like the old Last Will and Testament you read of your grandmothers, but that is because today estate planning can be specifically tailored to your goals, the specific assets you need to plan for, and the circumstances surrounding your world.

The following are some of the main reasons an estate plan can benefit you and your family:

1. **Proper disposition of the Estate:** You probably have a general idea of who you want to get what when you die, how you want them to get it, and when. If a person dies without an estate plan though, each state has intestacy laws which dictate who will inherit your estate, how and in what amounts. Estate planning allows you the opportunity to direct who you want to inherit from your estate and who you would rather not receive anything from your estate. It gives you the opportunity to choose disinherit any estranged family members or to leave something you cherish to a close friend.
2. **Avoiding Probate:** Probate is the court guided process by which the assets of an estate are accounted for, liquidated, used to satisfy creditors of the deceased, and finally distributed to heirs and beneficiaries of the deceased. The probate process is burdensome because it is time consuming, and expensive, and public. To the extent possible, it is most desirable to avoid the probate process all together by establishing a Trust or taking advantage of setting up non-probate transfers for your assets.

3. **Incapacity Planning:** Every adult has the exclusive right to make his or her own health care and financial decisions, and no one else can make those decisions for another adult absent any prior planning. Not even your spouse can make a decision for you unless you appoint him or her as your power of attorney through a legal document. By executing a Health Care Power of Attorney and Durable Power of Attorney you are able to appoint someone to make these decisions for you in the event you become incapacitated. Without such powers of attorney in place, it would be necessary for a person close to you to petition to the court for the appointment of a guardian or conservator, which is extremely burdensome, expensive, and time consuming.
4. **Creditor/Spousal Protection:** One of the largest benefits of having an estate plan is the ability to create both creditor and spousal protection for your beneficiaries. Appropriate planning can ensure that creditors and/or potential ex-spouses of your beneficiaries will not be entitled to your assets.
5. **Tax Planning:** With proper tax planning, you can save thousands of dollars in estate taxes. Rather than the government getting a substantial portion of your estate, you can preserve those assets for the enjoyment and maintenance of your beneficiaries. The estate tax laws are complicated and constantly changing, and estate planning will allow you to plan around this complexity and uncertainty.