CUMMINGS & LOCKWOOD LLC

7 REASONS WHY YOU NEED AN ESTATE PLAN

A Private Clients Group Article

Proper estate planning can give you (and your family) peace of mind about your finances in the event of your incapacity or death. By providing for the management and transfer of your property, you can ensure that your family is protected while reducing any associated financial and emotional costs. How can an estate plan help? Here are 7 benefits you should know:

1. **Avoid assets passing to unintended beneficiaries.** A Will or Revocable Trust (or Living Trust) enables you to make the decision regarding how your assets are distributed and to whom. Without these documents, the State's intestate rules apply and may result in someone benefiting from your estate that you didn't anticipate or desire. In addition, Wills and Trusts can ensure that your wishes are followed even if your beneficiaries die, get divorced, have additional children, or other circumstances occur.

2. **Minimize taxes.** A proper Will or Trust can minimize taxes significantly. Your estate plan should be structured to take full advantage of available deductions and exemptions. For example, the gift and estate tax "unified credit" permits every individual to transfer a specified amount of assets tax-free either during lifetime or at death, while the "unlimited marital deduction" provides for tax-free transfers during life and at death between a married person and his or her U.S. citizen spouse. The Generation Skipping Transfer Tax exemption can be used to pass assets to grandchildren and more remote descendants for a significant tax savings. A tax efficient estate provides for assets to be sheltered from taxes via the use of these exemptions while still allowing a spouse or others access to the assets if needed under terms you decide.

3. **Choose appropriate trusted people to manage and administer your affairs.** It's important to select individuals you can trust and can rely on to serve as Agent(s), Executor(s), Trustee(s) or Guardian(s) in the event of your death or incapacity. Choosing the right person will minimize conflict, and give you confidence in the management of your estate and assurance that your wishes regarding medical and financial matters will be followed.

4. **Protect your spouse and children.** Trusts are a great tool to enable you to set aside assets and provide financial security for a surviving spouse and children. For example, a Marital Trust can be used to provide funds for a surviving spouse while also ensuring that any trust property remaining passes at your spouse's death to your children or other beneficiaries you select. As to children, trusts can be used to allow a Trustee to manage the trust funds and distribute them to your children as needed, until each child reaches the age you selected for outright receipt of his or her Inheritance. This limits your children's access to their inheritance until they are mature enough to manage the funds properly and spend them wisely.

5. **Reduce your estate tax by gifting.** Giving away assets during your lifetime can be a useful estate planning tool. By gifting assets that are likely to appreciate in value or generate substantial income in the future, you can avoid the imposition of federal estate tax on the future growth and income of those assets. An Estate Reduction Trust can be established for your intended beneficiaries, including your spouse, if desired. In addition, an Irrevocable Life Insurance Trust can be created to hold life insurance on your life and allowing the death benefit of the policies to avoid estate taxation at your death. Life insurance often is ideally suited for gift-giving because a transfer of such policies often has no gift tax consequence and makes no impact on your current financial situation.

If you transfer your life insurance in this manner and live for at least three years after doing so, the insurance proceeds will avoid estate taxation both at your death and at the death of your spouse, regardless of how large either the insurance proceeds or the balance of your estate may be.

6. Maintain control and flexibility with regard to your affairs during your lifetime. Through the use of a Revocable Trust, you can continue to change your estate plan throughout your life and have a mechanism in place for managing your assets in the event of your future incapacity. Like a Will, a Revocable Trust provides instructions for the distribution of your property (and the establishment of any desired trusts) at death, as well as identifies a successor Trustee to assume full responsibility if you are no longer capable of managing the trust assets. Trusts established under a Revocable Trust agreement are not subject to mandatory ongoing probate court jurisdiction and thus avoid certain potentially costly administrative requirements. They also avoid the need for court appointment of a Guardian or Conservator to manage your assets; can help avoid some of the expenses and complications associated with probate of a Will; and may result in state income tax savings for your beneficiaries after your death.

7. Maximize charitable gifts. Complete estate planning should include consideration of the tax benefits and personal satisfaction that can result from making charitable gifts or providing for charities at your death. There are numerous techniques to maximize a charitable gift and take advantage of tax deductions that are not available to other gifts.

To learn more about how an estate plan can help you protect your family and preserve your legacy, please contact a Cummings & Lockwood trusts and estates attorney.