

INTRODUCTION TO ESTATE PLANNING AND CHECKLIST

Suggestions to Avoid Costly and Time Consuming Mistakes Regarding Your California Estate

The term “Estate Planning” means different things to different people. If you are researching this issue on the internet then you are thinking about how to make sure that as much of your assets as possible will go to the people that you want to get them and with as little expense, delay, and stress as possible.

In California, many people consider setting up a revocable trust so that they can avoid probate. This is usually, but not always, a good idea. Probate is expensive and can be very time consuming. A probate matter requires public filings and public court hearings. A revocable trust on the other hand is usually private and trust records are not subject to public scrutiny. A revocable trust, for most people will cost significantly less than probate for the same estate.

Some individuals or couples have children or family members who have special needs (developmentally challenged, substance addicted or mentally ill). If you are considering providing for children or other family members who have special needs, a trust that limits access to funds may be advisable. They may also be utilized to protect access to public benefits such as Medi-Cal (which is known as Medicaid in other states). In such circumstances a Special Needs Trust would generally be advisable.

Others will consider an Irrevocable Life Insurance Trust to insure that life insurance proceeds are not included in their estate for federal estate tax purposes. Those considering the purchase of life insurance to pay for potential estate taxes should consult with an attorney prior to the purchase of the policy. We do not sell life insurance and do not recommend insurance agents. Our advice is not biased as a result. A properly and timely prepared Life Insurance Trust can help achieve the goal of protecting a family business which might otherwise have to be sold to pay death taxes.

Pet owners may wish to consider a Pet Care Trust or they can provide for their pet in their family trust.

We have created a list of 17 simple things that you can do to organize your estate that will pay great dividends to your loved ones. It is likely that not all the items on the following checklist will apply to you. An organized estate will not only save time and money but also will help ensure that your final wishes will be followed.

This list is not necessarily complete and you should call us to set up an appointment for a free consultation to make sure that all issues are covered in you planning.

Finally, if it feasible to do so, you should talk to your loved ones about your plans. It is particularly important that you also speak with the person or people that you chose to administer your estate after you die to verify he or she is willing will take on this responsibility.

Please call the attorneys at Wolfberg & Wolfberg, P.C. for a free no obligation legal consultation and we will be happy to discuss your estate planning needs.

LEGAL DOCUMENTS

The following documents are suggested in a complete California estate plan.

1. **Trust and/or Will**

A properly prepared Trust and /or Will allows you to determine what you want to happen to your assets when you die. You can also use a will to designate the guardian of your minor children. A properly prepared Trust and following advice you will receive when you sign your estate planning document will almost always preclude a probate court proceeding. Let the attorneys at Wolfberg & Wolfberg, P.C. help you decide what estate planning documents you need.

2. **Advance Healthcare Directive**

An Advance Healthcare Directive allows someone you choose to make care decisions for you if you become too disabled to make those decisions for yourself. It also directs the individual you name to discontinue medical care based on your directions. In many other states this document is referred to as a Living Will.

3. **Durable Power of Attorney**

A Durable Power of Attorney allows the person you designate to pay your bills and to make financial decisions for you if you are not able to do so yourself.

4. **Information for your Survivors**

Though not a legal document, you can prepare directions for your survivors. The information you provide can include the location of important documents, credit card information and contact information for your attorney, accountant, and any other people who will need to be informed of your death.

FINANCIAL ARRANGEMENTS

5. **Planning for your funeral**

Planning a funeral can be very stressful. Preplanning can eliminate much of the stress involved with planning a funeral and can give you some control over the ultimate cost of your funeral. If you are a veteran then we would like to thank you for your service to our country and we encourage you to contact your local V.A. office to determine what benefits are available to you. We have general information, but the V.A. should have the most up-to-date information

6. **Make decisions about the orderly transfer of business assets**

If you own a business with others, you must talk to your partners about succession planning in advance. Business owners should have a buy-out agreement. Many businesses have life insurance on the business partners to fund a buy-out in the case of death of a partner. Other considerations would apply to a sole proprietorship.

7. **Calculate your net worth, including life insurance proceeds**

If you have substantial net worth you should talk to your accountant and our office to determine potential federal estate taxes. A properly prepared Trust can reduce potential liability for federal estate taxes.

8. **Insurance**

Life insurance provides an immediate source of cash that can be exempt from federal taxes. You should reevaluate your insurance policies every few years to ensure that the policies reflect your needs and adequately protect your wishes. You may want to consider an Irrevocable Life Insurance Trust prior to purchasing life insurance.

Long-Term Care insurance to pay for the cost of long-term health care in your home or at a private facility is another consideration.

Disability insurance is something that you may want to consider, in the event that a breadwinner of the family is disabled from work and unable to earn an income.

Health care (medical) insurance is of course needed and not discussed here.

9. **Retirement Benefits**

Review the beneficiary designations that you have made for your IRA, 401(k) and other retirement plans to ensure that they accurately reflect your estate planning goals. Generally, your trust is not named as beneficiary of your retirement benefits. We can make suggestions regarding beneficiary designations.

ORGANIZING FINANCIAL RECORDS

10. **Make a list of your assets and liabilities**

If you haven't already done so, make a list of all of your bank accounts, investment accounts, insurance policies, mortgages, consumer and auto loans, leases, credit cards, and other financial documents. The list should include the company and location with whom the account is held, account numbers/policy numbers, and contact information. Keep the list in a secure location and let trusted people know where to find the list in case of emergency.

11. **Retain copies of important documents**

You should keep a file with all of your important documents including deeds, insurance policies, car titles, birth certificates, marriage certificates, divorce decrees, court judgments, estate planning documents, and tax returns. A safe deposit box or a fireproof safe at home are good places to store these items. Update this list as needed.

12. **Personal data**

Prepare a list with your important personal information including your Social Security number, date of birth (for you and your family members), driver license number, and the names and phone numbers of your family members. Put the list in your safe deposit box or fireproof safe. Update as needed.

PERSONAL PLANNING

13. **Valuable Items, Keys, Passwords, and Estate Documents**

Provide a trusted family member or friend with the location of confidential or valuable items you may have put away for safekeeping. Prepare a list of computer passwords, safe combinations, and security codes and put it in a secure place. Let a family member or friend know where you have stored your spare keys, safety deposit box keys, computer

passwords, and security codes. If you have a hidden safe then you should provide the location of the safe so that it can be found by your heirs.

14. **Keep your estate planning documents with our other confidential or valuable items**
You should talk to the people that you have selected as your health care agent and the person designated in your power of attorney to make sure that they can locate these documents if you become disabled. These documents are valid only while you are living. Estate planning documents become effective on death. Make sure the persons you select will have access to your trust and will. You may wish to give them copies of these documents. The original of the will may be needed. Copies of all other documents are usually acceptable.
15. **Medical providers**
Prepare a list with the names and contact information for your medical providers including your physicians and dentists.
16. **Care for others**
If you are responsible for the health and well being of anyone else, for example children or someone who has a disability of some sort, then you should prepare a document that gives immediate care instructions in case of an emergency including an authorization to consent to minors' health care.
17. **Care for your pets**
Pets depend on their owners for their well being. Prepare a list of instructions for the care of your pets and consider making a separate Pet Care Trust or including provisions for your pets in your living trust that will provide for the care of your pets if you are unable to do so. You should make a list with the name and contact information for your pets' veterinarian.

The above checklist is not intended to be a complete list of what you should do. This list is not a substitute for competent legal advice.

Call an attorney at Wolfberg & Wolfberg, P.C. to discuss issues raised in this
Introduction to Estate Planning and Checklist. We are here to help!
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