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A GUIDE TO ESTATE PLANNING

What is Involved in Estate Planning?

- ◎ You should consider the following:
 - What are your assets and what are their value?
 - Whom do you want to receive the assets - and when?
 - Who should manage the assets if you cannot, either during your lifetime or after death?

What is Involved in Estate Planning?

- You should consider the following:
 - Who should have the responsibility for the care of my minor children should I become incapacitated or die?
 - If I cannot take care of myself, who should make decisions on my behalf about my well being?

What is Involved in Estate Planning?

- Gather all information which identifies which assets belong to your estate:
 - Current income from employment and all investments.
 - Any expected deferred compensation.
 - All IRA, pension plans, profit-sharing plans, social security including survivor benefits
 - Investment documents, certificates, passbooks.

What is Involved in Estate Planning?

- Gather all information which identifies which assets belong to your estate:
 - Insurance policies
 - Deeds to property
 - Trust agreements
 - A list of all personal property
 - Current and expected debts, obligations, including mortgage and loan balances, real estate liens, taxes payable, consumer debts, and estimates of funeral costs and estate selling expenses.

Why Do I Need a Will?

- ⦿ A will avoids costs and complications for your heirs when you die.
- ⦿ Besides providing instructions about gifts of your property - like your home, car, investments and jewelry - your will can provide instructions for payments of your debts, selection of an executor for your estate, and appointment of a guardian for your children.

Why Do I Need a Will?

- Without a will, your property will be distributed according to state law and the County Commission or County Clerk will select an administrator for your estate and a guardian for your minor children.
- Your lawyer can help you prepare a valid will that minimizes taxes and reduces the time and expense of handling your estate.

Why Do I Need a Will?

- If you don't make a will, you will have given up your right to decide who inherits your property. Your property will be distributed according to West Virginia law, which might be quite different from what you would have wished.
- If you fail to make a will, you will be unable to disinherit heirs.

Why Do I Need a Will?

- If you leave no will, you will lose the opportunity to select a guardian for any minor children and an executor for your estate.
- The County Commission, County Clerk or court appointed administrators and guardians may not be the family member or friend that you would have chose to handle your affairs.

Why Do I Need a Will?

- Dying without a will can be costly and may complicate the transfer of your property to your heirs.
- In addition, estate administrations proceedings without a will may delay transfer of your property to heirs.

Will Substitutes: Living Trust

- A living trust is the legal contract in which you transfer assets to the trust to be managed by a trustee for the benefit of one or more people, generally you or your spouse.
- The trustee is designated to administer the trust and manage the assets.

Will Substitutes: Living Trust

- You are permitted to serve as your own trustee during your lifetime or you may want to choose another person or organization to serve as your trustee.
- A trust can hold all types of assets including your investment portfolio, collectibles and your business.

Will Substitutes: Living Trust

- ⦿ Unlike your will, a living trust is not a matter of public record.
- ⦿ If your trust agreement provides for your trust to continue after your death, the assets and the trust at your death will escape probate.

Will Substitutes: Living Trust

- Pour-Over Provisions
- Joint Ownership
- Community Property
- Beneficiary Designations

Probate Process

- The probate process is a judicial process that determines that a will is valid, insuring the faithful execution of all instructions found within the will.

Probate Process

- ⦿ Advantages of the probate process:
 - Protects upon asset distribution.
 - Fair analysis of estate value.
 - Protection from some taxation.

- ⦿ Disadvantages of the probate process
 - Higher cost of the estate.
 - Delay in transfer of assets.
 - Public knowledge of the estate.

Federal & Estate Tax

- ⦿ Unless you plan for taxes, they can take a large part of your estate.
- ⦿ Every person has a line of credit that allows assets to pass free of estate and gift tax.
- ⦿ If your total taxable estate and lifetime gifts are less than or equal to the applicable credit exclusion amount of \$1,455,800.00 no federal or state tax will be due.

Federal & Estate Tax

- Generation-Skipping Transfer Tax

Advance Directives

- ◎ Durable power of attorney.
 - Grants permission for another person to make legal decisions in the event of mental incapacity.
 - Powers granted can be broad or limited in scope and include such areas as business transactions, insurance transactions, estate transactions, investment decisions, government benefits, and retirement plan decisions.

Advance Directives

- ⦿ Medical power of attorney.
 - Permits an agent to make those health care decisions and, unlike a living will, is not limited to decisions regarding artificial life-support.
 - Health care proxy comes into play only when a person is unable to make his or her own health care decisions.
 - Update this at least every 5 years.

Advance Directives

- Funeral Arrangements and others advanced by a living will or medical power of attorney are generally inexpensive, easy to implement, and should be considered necessary essential estate planning tools.
- This will also prove to be very financially effective as it will in most cases, not allow court intervention to make these decisions.

Living Will

- A specific set of instructions for a health care provider that stipulates the extent to which measures should be taken to maintain the patient's life should the person be unable to express his or her wishes.

Questions?