



CLIENT MEMORANDUM

ISSUES TO CONSIDER PRIOR TO AN ESTATE PLANNING MEETING

Our planning will cover many topics, including tax planning, trusts, care for your survivors, and your own care if you are incapacitated. Issues which arise frequently but may be easier to consider outside of our meeting include the following. Do not feel you need to have answers to all of these questions before we meet. We are glad to discuss them with you:

1. How will my family and executors locate my assets and know what to do?
 - a. Typically this is less of a problem than one would expect. The mail will eventually reveal most of your assets and obligations.
 - b. It will also help, however, if you request and complete our Post-Estate Planning Questionnaire, which allows you to record the type and location of your consultants, your records, your assets, and your liabilities.
 - c. A significant new problem is that many transactions are now done over the Internet. Many web portals require password authentication, and even using passwords without authorization can be illegal. It is therefore essential that you keep a list of your email accounts, your on-line financial accounts, your automatic bill payment arrangements, and the related passwords; that you have someone who knows where and how to find this information; and that you authorize him or her to use it.

2. What provisions should I consider for children and grandchildren?
 - a. Our experience is that unequal treatment of children, no matter how clear the need or how careful the discussion, frequently leads to resentment.
 - b. A common arrangement is to keep funds in trust until a young person has reached a selected age or ages. Typical patterns include distributing an inheritance in thirds at 25, 30 and 35, or distributing one third at 28 and the balance at 35, for example. The ages are best suggested by you, in light of your own experience and your knowledge of your children, but typically the trust is drawn so that the same pattern applies to grandchildren by a deceased child.
 - c. Such trusts typically require the trustee to provide for the beneficiary's health,

support, education, and other worthwhile expenses. In some cases a beneficiary may be better served with a very restrictive trust that ends only when the trustee is of the opinion that it is in the child's best interests. Children with special needs who may qualify for government assistance need special types of trusts. These cases should be brought to our attention early in the discussion.

- d. You can also consider "generation-skipping" trusts, which allow the a child to keep his or her inherited funds in trust for life and thus avoid including them in his or her taxable estate. The child can serve as his or her own trustee, make his or her own investment decisions, and within limits, make his or her own decisions about distributions.
 - e. Modern reproductive technology has raised difficult new issues concerning the definition of descendants. Are descendants conceived with donated genetic material legally related to you, or to the donor? Should descendants born after the death of their parents inherit a share of their estates, possibly even after the estate has been divided among other children? If you or a family member have been a donor or a beneficiary in a fertility program, please let us know.
3. Who should be nominated as Guardians for any of your children who are under 18 at your death(s)?
 - a. The key qualification for guardians, besides willingness, is child-rearing skills. Guardians generally do not hold large sums of the child's money.
 - b. Often naming someone in the same community will be less disruptive to the child's life.
 - c. Guardians are appointed separately for a child's person and the child's property, although generally the same person fills both roles.
 4. Who should inherit if my spouse and my descendants all pass away?
 - a. You should name contingent beneficiaries outside your own line of descent, especially if you travel as a family. Collateral relatives and charities are common beneficiaries.
 - b. Note that contingent beneficiary provisions typically do not take effect if even a single descendant survives.
 - c. This risk is real, but remote. A complicated provision may not be the best use of your time and money.
 5. Who should be my Executor?
 - a. Preferably an executor will be someone local, with time and an interest in the family.
 - b. Since much work will be done or closely supervised by an attorney, there is usually no need for professional experience. Nevertheless, some financial or business sophistication and good attention to detail are important.

6. Who should be my Trustee(s)?
 - a. Trustees for a trust that is intended only to save taxes can be family members, relatives, good friends, or professional trustees.
 - b. Trustees for a trust that is intended to protect young or less capable beneficiaries should be extraordinarily reliable. Often it makes sense to name co-trustees, to ensure the supervision that a young beneficiary will not be able to provide.
 - c. Again, however, trustees should have some financial or business acumen, and good attention to detail. Being local is less important.

7. Should you name a bank or a professional as executor or trustee?
 - a. A bank administers many trusts, but it will not become elderly or die, and it is unlikely to overlook tax filings, lose records, invest negligently, or divert money to improper purposes. A bank or trust company can be especially useful if there is discord among the family, there are very long-term trusts, or estate administration will be unusually complicated and there are no family members with the requisite time, experience or sophistication. If you decide to name a bank or trust company, an individual co-fiduciary is recommended.
 - b. Professional firms (e.g. law or accounting firms) cannot act as fiduciaries in most states. You can name an individual accountant or attorney, but you should do so only if you know him or her very well, have considered your other options, and are content with their charging fiduciary fees as well as using (and compensating) their own firms for accounting and legal work.

8. How important to you is saving estate taxes? Do you want a very simple estate plan, even if it costs some estate tax; would you want to employ tax-planning Wills, but not give away significant assets while you are alive, or do you want to reduce your beneficiaries' estate tax burden, even if it means making significant gifts and employing techniques that go beyond a Will?