FORMAN
INVESTMENT SERVICES
RAYMOND JAMES®

Developing a successful estate plan

Five key elements to protect your family and your legacy

Estate planning means much more than simply drawing up a will. It means establishing an integrated plan designed to safeguard your estate, future generations and those you love. It also means knowing your assets will be properly managed and your legacy preserved.

An effective estate plan should be comprehensive, so it's important to consider your overall financial objectives and develop your plan with professional assistance. These professionals, at a minimum, should consist of an estate planning attorney and a financial advisor and may also involve others such as your CPA or an appraiser. Most important, don't put off estate planning. It is never too early to start a plan that is designed to preserve, protect and transfer wealth to those individuals and organizations you care about most.

The following pages provide more insight into estate planning strategies and how to help ensure that you create and maintain a successful plan.

KEY TAKEAWAYS

A successful estate plan should be comprehensive. It should be developed with expert assistance.

A complete estate plan encompasses a revocable living trust, a will, a durable power of attorney for both financial affairs and medical decisions, and a living will for end-of-life decisions.

You have worked long and hard to build your estate. Avoid the mistakes that could leave your wealth unprotected.

Review estate plans regularly – at least once a year – and identify any life changes that will impact your plan.

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CREATING AND MAINTAINING A SUCCESSFUL ESTATE PLAN

You have worked long and hard to build your estate. To ensure that your wishes will be carried out, your wealth protected and your legacy preserved, there are five key elements to a successful estate plan, including:

STEP 1

TAKE THE FIRST STEP

While estate planning can be an uncomfortable topic, not having a plan in place can leave your family and your legacy in an even more difficult situation. Surprisingly, many intelligent, wealthy and otherwise well-advised individuals put estate planning off or simply ignore it to their detriment. It is never too early to begin planning because there are plenty of potential life events – untimely death, accident, dementia or injury – that could leave your loved ones confused and worried about what to do because there was no plan in place.

Without your own plan, you may not realize it, but the government has an estate plan already prepared for you. The process is called intestate succession. In addition to it being expensive, public and cumbersome, this process may ignore important needs, such as designating a proper guardian for your minor children who you may have not chosen yourself.

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STEP 2

COMPLETE THE PLAN

Often, individuals think of estate planning as simply signing a will. It takes more than that, particularly in today's more complex tax and legal environment. Here are some essential items needed to complete a comprehensive estate plan:

- A will
- A revocable living trust
- A durable power of attorney for financial affairs
- A durable power of attorney for medical decisions
- A living will for end-of-life decisions

While not the all-encompassing form many people believe it is, a will is a necessary part of every estate plan as it documents in detail the method in which you want your assets transferred upon your death.

A revocable living trust, or living trust, is an agreement that provides various benefits, including the efficient management of one's financial affairs in the event of incapacity of the living grantor (the person who created the trust). Upon the grantor's death, a living trust can be used to transfer assets to loved ones or favorite charities efficiently and outside of the probate process.

Creating a durable power of attorney for both your financial and medical affairs is extremely important. In the event of incapacitation, the durable power of attorney allows your "attorney in fact" to transact business on your behalf or make medical decisions when you cannot. In choosing your attorney in fact, make sure it is someone you trust to carry out your wishes, someone who will not take advantage of you when you are incapacitated, and someone who is willing to serve as your agent.

A living will is a tool that allows you to make end-of-life decisions for yourself in the event you are ever unable to express your wishes. A living will contains your instructions to your physician and other healthcare providers as to the circumstances under which you want life-sustaining treatment provided, withheld or withdrawn.

ASSET TITLING AND BENEFICIARY DESIGNATIONS

The manner in which assets are owned – including joint titled property, community property and life insurance – is very important. For example, if a married couple creates a new estate plan but all property remains joint titled with right of survivorship (JTWROS), the surviving spouse automatically owns all property held as JTWROS no matter what the terms of the will or trust are. More time and money will be needed in order to correct the new estate plan.

Also, consider asset ownership when moving between community property states (like Texas or California) and common law property states (like Florida, New York or Illinois). Community property is a form of shared ownership of property between husbands and wives that is recognized in only nine states. Moving between common law and community property states without considering the implications of the move can result in unintended and unfortunate estate planning implications.

The ownership of life insurance policies can also have estate planning implications. If the owner of the policy is also the insured, the death benefit of the policy is included in the insured/owner's gross estate for federal estate tax purposes. Owning policies of insurance on your own life can create unnecessary estate tax consequences. It may be advantageous to transfer life insurance policies to the beneficiaries of those policies or to an irrevocable trust.

Talking with a financial advisor in conjunction with a tax planning attorney and CPA will help create the best strategy for you to address all of these areas and more.

A LESSON LEARNED

Here is a real-life situation that demonstrates the disastrous impact of not completing an estate plan. A gentleman met with his attorney, and together, they prepared the appropriate documents for his estate plan, including a will and living trust. As time passed, the gentleman was slowly stricken with Alzheimer's. When he reached a point of incapacitation and the family stepped in, they were surprised to find that the documents had never been signed. Without the appropriate signatures, the documents were not valid. There was no trust or power of attorney in place to dictate the man's wishes, and as a result, a guardianship was required to manage both his personal and financial affairs. The family is now required to go through the court to manage his finances, a cumbersome and expensive process, and his wishes for the final distribution of his assets will not occur.

This case study is for illustrative purposes only. Individual cases will vary.

STEP 3

APPOINT APPROPRIATE FIDUCIARIES

The person or trust company who acts for you when you can't perform under your will (a personal representative or executor) or trust (a trustee) is called a fiduciary. Often estate planners believe that the fiduciary responsibility should be given to a specific individual as an honor or to the oldest child out of respect. Yet, thoughtfully selecting your fiduciary is critical to an effective estate plan.

Ideally, the wisest choice for a fiduciary is one that has the right combination of time, temperament and tenure to carry out the role.

When identifying a fiduciary, consider the time required to carry out the responsibility, in terms of having both enough time to conduct and live their own lives as well as serve as your fiduciary and the ability to act as the trustee during the trust's entire term. Selecting an adult child with a busy life consumed by family, work and travel may not be in the best interests of your estate because they will have very little time to serve as your fiduciary. Nor would it be advisable to name an older friend or relative as trustee since your beneficiaries are likely to outlive them. The traditional rule is that trusts must end 21 years after the death of the youngest beneficiary, but many trusts can last much longer and impact numerous future generations. The key to remember is that no one will live forever to carry out your wishes in the trust.

In selecting a fiduciary, you should also think about that person's temperament. Families often conflict with a fiduciary due to mismatched temperaments. An effective fiduciary must be diligent and detail-oriented.

Consider Raymond James

If your assets and plans are complex, administering your trust may take a significant amount of time, knowledge, energy and commitment. Choosing the right trustee – or team of co-trustees – to protect and administer the assets you have worked a lifetime to accumulate is crucial to your future.

Raymond James Trust offers complete personal trust services, including serving as trustee or as an agent or custodian for individual trustees. Services by Raymond James Trust are delivered in a team context, drawing upon the knowledge and experience of financial advisors, affiliated investment management entities and experienced trust staff. Solutions are never "one size fits all," but are individually tailored to fit personal needs.

Select an individual who tackles any problem or task with the same work ethic as you. An effective fiduciary must also be objective and honest. That is imperative when dealing with such important decisions that affect your loved ones' financial future and your legacy.

Finally, your choice for fiduciary should possess the tenure – a combination of experience and talent – for the role. Acting as a fiduciary is a difficult job and a heavy responsibility. Without this proper blend of talent and experience, the fiduciary may need to hire additional expert talent not initially planned for, ultimately costing the estate more money. Worse, if the fiduciary tries to go it alone, not admitting he or she doesn't know how to handle a certain issue could lead to even more costly mistakes that may result in additional court and tax fees.

Given both the subjective and objective elements to consider in choosing a fiduciary – from talent and temperament to time and longevity – the best choice may lie with an independent corporate trustee like Raymond James Trust, which is highly skilled at dealing with the intricacies of estate tax, trust and investment strategies. Naming a reputable trust company as the fiduciary simplifies technical issues, eliminates the emotional perils often involved with family or friends, and ensures that your wishes will be fulfilled exactly as they are spelled out in the trust. Just as important, an independent trust company is closely regulated, audited and backed by the capital requirements set by its regulators.

A FUTURE BUILT ON TRUST

John and Amanda had created a trust for their children, naming John's brother Mark as the trustee. Although Mark was a capable administrator of the trust, John and Amanda had an increasingly difficult time managing the assets in the trust separate from their investment accounts. When Mark moved to another state, it only made things that much more difficult.

At the suggestion of their financial advisor, the couple transferred their trust account to Raymond James Trust. The transition was quick and easy, and now John and Amanda have a corporate trustee with a team of trust professionals continuously overseeing and reviewing their trust account as part of their overall financial plan. And now when John and Amanda visit Mark and his wife, they talk about everything but their financial future.

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STEP 4

UPDATE PLAN REGULARLY

Like any financial plan, an estate plan is based on the best available information within the time frame the plan was developed. But once an estate plan is created, the work is not over. Life is like a motion picture with dozens of frames changing every second – sometimes subtly, sometimes dramatically. Your estate plan is only reflective of a single frame or a single point in time. Review estate plans regularly – at least once a year – and identify any changes that will impact your plan, including family, personal interests, wealth and changes in tax law.

With respect to family, have any of the following occurred in the past year?

- You had more children
- Grandchildren were born
- You divorced or married
- A loved-one fell ill and developed special needs

These are all important factors that should be taken into consideration when making adjustments to your estate plan. Some other life changes and questions that may have profound effects may not be so obvious:

- Has your income grown or contracted?
- How much do you want to leave to your children versus giving to a charity that has become important to you?
- How has the rising cost of education affected your plan?
- Is your wealth primarily held in a significant asset like a vacation home or a particular stock?
- Do you want to transfer the home because it has been in the family for three generations or sell it now and pass on only the value of the home to a beneficiary?

TAXES AND EXEMPTIONS

Changes in law and tax structures can quickly put an estate plan out of date as well. As it stands now, Congress has set the maximum estate tax rate at 40% and has increased each person's lifetime exemption amount to $5.49 million (2017), which has been indexed for inflation. For spouses, including same-sex couples married in the appropriate states, that is $10.98 million. In addition, Congress has included "portability," which allows a deceased spouse's estate to elect to transfer any unused exemption amount to the surviving spouse. But federal and state estate and gift tax laws can change at any time, and we must keep an eye on any upcoming changes to these rules, preferably with the assistance of a tax planning attorney.

One of the first principles of economics is that everything is connected to other things in unseen ways. And every action has a consequence. These are the reasons to review your estate plan on a regular basis. You may not recognize a change, but your experienced advisors might.

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A TAX-SAVING SUCCESS STORY

After 24 years in the medical field, Jack retired and he began thinking about his estate and his legacy. He wanted to do more than just bequeath his possessions in a will. So he planned in advance to ensure that his estate, and his family's future, would be protected from losses, especially through taxes.

Working together with his financial advisor, attorney and tax advisor over the years, Jack crafted an estate plan that placed high-value assets vulnerable to income and capital gains taxes into a trust for his family. So while those assets continued to generate income for Jack's beneficiaries, they were no longer part of his taxable estate. Jack also transferred existing life insurance policies into the trusts, naming family members as beneficiaries, to provide the cash needed to settle the estate taxes when it came time to distribute the assets to them. With his days in the ER now over, Jack knew his new phase in life would begin with everything he owned in its rightful place.

This case study is for illustrative purposes only. Individual cases will vary. Any information is not a complete summary or statement of all available data necessary for making an investment decision and does not constitute a recommendation. Prior to making any investment decision, you should consult with your financial advisor about your individual situation.

STEP 5

COMMUNICATE THE PLAN

Once your estate plan is created, you can breathe a sigh of relief for tackling a tough topic. The next important step is to communicate critical plan information to those you have charged with carrying out your plan – your fiduciaries.

Your selected fiduciary should know they have been named and have the documents or have a way to gain access to those documents. Your selected fiduciary should know the names and contact information for your estate planning attorney, financial advisor, CPA and other key players in your estate plan, including physicians. Last, be sure the selected fiduciary knows where to find the contact information for the loved ones or charitable organizations you include in your estate plan.

CONCLUSION

You have worked long and hard to build your estate. An estate plan done with careful attention to detail, the collaborative expertise of professionals and regular review can provide a great deal of comfort to you, and to those you love.

Ensure that your wishes will be carried out, your wealth protected and your legacy preserved by addressing the five key elements of a successful estate plan. And the sooner you address them the better. With a proper estate plan, you can ensure that your assets will be applied to the objectives you choose, both now and in the future.

GET STARTED

There are certainly a number of factors and strategies to consider in protecting your wealth and legacy for the future of your family. A partner like Raymond James Trust can help your financial advisor get started on your plan or review an existing estate plan to see where improvements can be made to ensure a successful transition of wealth. Don't keep your wishes from being carried out and leave your wealth and legacy unprotected.

Please note: Changes in tax laws or regulations may occur at any time and could substantially impact your situation. Raymond James financial advisors do not render advice on tax or legal matters. You should discuss any tax or legal matters with the appropriate professional.

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