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A LEGAL PROFESSIONAL ASSOCIATION

The Road to Effective Estate Planning

Charting a Course for Your Family's Future

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Introduction

Congratulations on taking the first step toward providing a secure future for your family! This booklet is a valuable resource to help you understand important issues you'll face as you work on your estate plan. It covers basic concepts you need to know, but it's not a substitute for professional advice about how these concepts apply to your particular situation. Consider it a "head start" to successful planning.

You'll be pleased to know that this booklet isn't full of technical "legal-babble" that makes your head spin. Instead, it's a plain English explanation of some complex topics in a clear, understandable and conversational style. We simplified things to eliminate confusion and intimidation. In the short time that it takes you to read this booklet, you'll understand more about estate planning than most people learn in a lifetime.

Our objective is to encourage you to be proactive about estate planning. That will reduce expense, risk and complexity for your family in the future. Hopefully, a little extra knowledge will help you make better choices about your estate plan and make the process a little less stressful.

We want you to have an effective estate plan. There's a big difference between being "effective" and just being "efficient." An efficient estate plan is as easy, fast and cheap as possible. An effective estate plan actually accomplishes what you want, while still being efficient.

Here's a simple illustration. If you're driving south on Interstate 75 from Dayton to Cincinnati on a clear, calm day with your cruise control set at 65, your car is probably operating efficiently. If your intended destination is Columbus, however, you're not being effective.

Give what you have to whom you want, when you want and in the way you want... at the lowest overall cost.

You need an effective estate plan that takes you to your intended destination as efficiently as possible. Otherwise, you're wasting your time.

What is Estate Planning?

An estate plan is a formal legal arrangement for the management of your personal and financial affairs and the distribution of your assets when you're not capable of handling them yourself. A well-designed estate plan gives you exclusive control over what happens if you become mentally incompetent and when you pass away. "Estate planning," therefore, is the process of putting legal arrangements in place in a way that works best for you.

Every estate plan should accomplish certain things. It should give you control of everything while you're alive and well. It should also allow you to provide for the care and support of your family and yourself if you become incompetent. When you pass away, your estate plan should contain your specific instructions for giving what you have to whom you want, when you want and in the way you want. All of this should occur at the lowest possible overall cost for you and your family.

If you become incompetent, you won't have the mental capacity to handle things on your own. Likewise, when you pass away you won't be around to settle things. Someone will have to do it for you. An estate plan enables you to choose who will do that, and it gives them the legal authority and specific directions to get it done.

Without a formal estate plan, you and your family are at the mercy of strangers to determine what happens. Ohio

law dictates how things work and who gets what if you don't have your own plan, and Probate Court controls the whole process. Chances are, you won't like Ohio's default plan and your family certainly won't like how expensive and cumbersome Probate is.

There are many benefits to having a well-designed estate plan. Most importantly, it puts you in control of situations that would otherwise be beyond your reach. It reduces the expense, risk and complexity that your family faces if you become incompetent or die. Your plan serves as a roadmap to guide your family through the tough transition.

There are four stages to every estate plan. First, you have to create the plan. Next, you need to title your assets to work correctly with your plan. Then, you need to keep your plan updated to address changes that occur during your life. Finally, your family will have to follow your plan to settle your estate when you die.

These stages apply whether you have a great estate plan, a bad one or no plan at all. Only you can decide how well you do on the first three stages. The moment of truth comes in the fourth stage, when your family faces the task of actually using your estate plan to wrap-up your final affairs.

Not all estate plans are created equal. Some are "bare bones" documents or are so poorly written that they invite battles among the beneficiaries. Others may look pretty and be easy to read, but they don't really address your particular situation. The quality of an estate plan isn't in the appearance or length of the documents, but in the thoroughness of the content.

Too many people – including lots of professional advisors – are under the false impression that an estate plan is just a set of generic, boilerplate documents. In reality, your actual *plan* isn't a document at all. Your plan is simply what you want to do. The documents are just the written expression of your objectives so that everyone else knows what you want. They provide the legal structure to make your plan work the way you want.

Of course, you'll always find some "boilerplate" language in estate planning documents. There are specific legal things that every estate plan needs to include in order to work correctly. If you had to write every sentence in an estate plan document from scratch, nobody would ever be able to afford it. It would be pointless to reinvent the wheel every time.

The challenge in creating an *effective* estate plan is knowing how to find the proper balance. Portions of your plan will require special language to make it work for your unique circumstances. Then, it also needs to incorporate the necessary technical language that makes the plan work the way you intend. The trick is knowing when to use special language, how to write it correctly and how to glue it all together with the right technical stuff so that it works.

It's not as easy as it sounds. If you mess it up, it could be *very* expensive to fix, or it could be impossible to fix. Bad planning can have terrible consequences, and you don't get a free "do-over" after you die.

Why Should You Care?

You probably don't plan on dying soon, so why should you care about all of this stuff? Rarely does anyone "plan" to die at a particular time. Sure, you can do things to improve your chances of living, but in reality, disability and death are out of your control. When your number is up, it's time to go whether you planned on it or not.

Playing the odds that you won't die is gambling with the most important thing in your life – your family and loved ones. When you're gone, nothing really affects you anymore. Your estate plan really isn't about *you* – it's about your family. They're the ones who suffer the direct impact, both emotionally and financially.

Still, there are a million reasons why people put off estate planning. We all spend more effort and money on one family vacation than we do in our entire life on estate planning. That's just human nature, because vacations are fun – estate planning isn't. People don't like to spend time and money on things that aren't enjoyable, even if it will impact their family for years after they're gone.

Estate planning isn't just for rich people, old folks, or those with complicated situations. The only thing your net worth affects is whether you need to include tax planning. A death in a young family can be more financially devastating than for an older person, especially if there are minor children. Your estate plan can be as simple or as complex as you want, as long as it addresses your particular situation.

Everyone can benefit from a good estate plan. Your age, net worth and the simplicity of your situation aren't good reasons to delay planning. It's never too early to start. Every day you let pass without your estate plan in place is a gamble with your family's future.

The road to an effective estate plan isn't too hard to follow. You just have to know where to start.

Determining Your Destination

As with any type of planning, you need to decide where you want to go before you can figure out how to get there. You literally need to begin with the end in mind.

Imagine you are planning to take a vacation by car. Do you pull out a map and just start highlighting a bunch of roads? Or do you first decide where you want to go, and then get out the map to determine the best way to get there? The legal documents that comprise your estate plan are just the roadmap for reaching your desired destination – accomplishing the end results that you want to achieve. You have to figure out the destination first.

Your personal goals determine your destination in estate planning. These are simply what you want to happen in various circumstances. They reflect your hopes, dreams, fears and concerns about your family when you're gone. They're your picture of the perfect destination for your family.

Estate planning is really "people" planning. Every family is different. You not only have different financial resources, but also different personalities, values, traditions and ideas of what's important. Even within the

family, everyone is different. Each person has strengths, weaknesses and little quirks that make them unique. Family dynamics play a huge part in estate planning, and nobody understands those dynamics better than you do.

Sadly, few professionals place much emphasis on the personal side of estate planning. They're obsessed with money and taxes, often to the point where nothing else matters. That's understandable because that's what their training involved, but it's no excuse for missing the big picture of planning. Don't misunderstand – money and taxes are important issues, but they're the easiest part. Estate planning is not a financial transaction.

Remember, you've got to start with the end in mind. Money and taxes aren't an "end." They're a *means* to an end, but not the end itself. Your ultimate planning goals involve the people you want to benefit – how they will get your estate, how they will benefit from it and how you can protect it against all the bad things that can happen.

So, first you have to lay out all of your personal planning goals. Do that without even thinking about money and taxes. If money and taxes were not an issue, what would you want to happen? Forget about what your next-door neighbor did, or how Aunt Millie and Uncle Chester did it. How do *you* want things to work for *your* family?

Your Navigator

Once you figure that out, then it's time for your attorney and other professional advisors to mold the money and tax issues into your plan. Their job is to figure out how to accomplish your personal goals with the most effective tax and financial structure.

The biggest hurdle that most people encounter is not knowing what they should consider regarding their personal goals. It's tough to find answers if you don't even know the right questions! That's where your attorney becomes the chief navigator on your journey. You need to work with an experienced estate planning attorney who has the tools and experience to guide you through the goal setting process.

Estate planning is a mutual education process. You need to teach your attorney everything you can about your family and your hopes, dreams, fears and concerns for them. Your attorney should help you identify the issues you face, and teach you about the legal options available to address those issues. Together, you can develop a plan that works for you.

The quality of your estate plan comes from the personal counseling and guidance you receive from your attorney. Without the direction of a thorough planning process, all you've done is hired a typist.

If you determine your destination first, mapping out your estate plan becomes easier. When you know which direction you're going and where you want to end up, the next step is to find the best way to get there.

Choosing the Right Path for You

There are two main paths in estate planning. One path relies on a Last Will and Testament ("Will"). The other path is a Revocable Living Trust ("Trust"). The best choice for you depends on what you want to accomplish.

People always argue about which is better, a Will or a Trust. That debate is silly and pointless. There's no right or wrong answer that applies to everyone. A Will and a Trust are *different*, not better or worse than each other. One is best in some planning situations and the other is best in other situations. Both may or may not get you to the same end destination.

Here's some good advice as you start your estate plan: Don't say you "need" a Will or you "need" a Trust. What you *need* to do is first figure out which one is best for your particular circumstances. You can only do that if you know what a Will and a Trust are and what they do.

Where There's a Will, There's a Way

A Will is a legal document that directs who gets your assets after you die. It allows you to "*give what you have to whom you want"* when you die. A Will becomes valid as soon as you sign it, but it only works after your death. It doesn't do anything for you while you're alive or if you

become incompetent. Its purpose is to divvy up your stuff after you're gone. Unfortunately, with a Will there are limited options for the distribution of your property.

A Will *always* goes through Probate Court. It's a ticket directly to Probate because that's the only place to administer it. A Will can be perfect in the right situation, but it can be a horrible path if your personal goals include avoiding Probate or require more in-depth planning.

You appoint an Executor in your Will to be in charge of settling your estate. Your Will gives the Executor a lot of authority to do all the things necessary to get through Probate as smoothly as possible. If you have minor kids, you can also name a Guardian for them in your Will. A "Guardian" is the substitute parent who will take care of your kids if you pass away.

A Trustworthy Path

A Revocable Living Trust is a written agreement that provides for the management and distribution of your assets. "Revocable" means that you can change it or terminate it any time you want, as long as you're alive and mentally competent. "Living" just means that you created it while you were alive.

A Trust is effective immediately when you sign it. You control what the Trust says, so you can design it to meet your specific goals. There are no "right" or "wrong" answers. A Trust is like a book of instructions, and the options for what you include are almost limitless. This gives you maximum flexibility and benefits.

Since it becomes effective the minute you sign it, a Trust enables you to control your financial affairs while you're alive, if you become incompetent and after you pass away. On your death, your Trust directs how your assets will pass to your Beneficiaries in the most effective and tax-efficient way. It can be the perfect path in many cases, but it may be overkill in the simplest situations.

Contrary to popular belief, a Trust does not *automatically* avoid Probate if you become incompetent or die. It only controls the assets you put in it. If avoiding Probate is one of your planning goals, you have to take the necessary steps to be sure that your Trust holds title to all of your assets. You avoid Probate with a Trust only if you have *every single asset* you own properly titled in your Trust before you become incompetent or die.

There's always a possibility that you forget to put a few assets in your Trust, so you should always have a Will to go with your Trust. It's a special Will, though, that "pours over" any assets you own in your own name into your Trust (which is why most attorneys call it a "Pour-Over Will"). It does have to go through Probate, but it's a good safety net to be sure everything gets into your Trust eventually. You also need it to appoint Guardians for your minor children, if you have any. You can't appoint Guardians in a Trust.

You may have heard of a "Testamentary Trust." That's a Trust you create inside a Will. Since it's part of the Will, it remains subject to ongoing Probate management until the Trust terminates. That makes it extremely expensive to administer. Testamentary Trusts are old-fashioned and impractical. A Revocable Living Trust can do much more with far less overall expense.

An alternative to a Testamentary Trust is a "Standby" Revocable Living Trust. A "Standby Trust" is just a Revocable Living Trust that you don't intend to use at all

Issues to Consider In Setting Your Personal Goals

Do You Want To . . .

- ✓ Avoid Probate guardianship if incompetent?
- ✓ Provide for your health care decisions if you aren't capable?
- ✓ Avoid Probate when you pass away?
- ✓ Avoid Probate of assets you may own in other states?
- ✓ Keep your financial affairs out of public records?

If Your Spouse Survives, Do You Want To . . .

- ✓ Protect your spouse's inheritance from future creditors or lawsuits?
- ✓ Protect your assets from the new spouse if your spouse remarries?

For Your Children, Grandchildren or Other Beneficiaries, Do You Want To . . .

- ✓ Designate who will have custody of your minor children?
- ✓ Avoid Probate guardianship of minor Beneficiary's inheritance?
- ✓ Direct when and how your children receive and use their inheritance?
- ✓ Reward Beneficiaries for achieving important milestone in their life?
- ✓ Encourage personal or family values?
- ✓ Protect the Beneficiaries' inheritance from their potential future creditors or lawsuits?
- ✓ Protect the Beneficiaries' inheritance from their present or future spouse if they divorce?
- ✓ Provide protection for Beneficiaries with mental or physical disabilities, or addictive behavior problems?

Do You Also Want To . . .

- ✓ Provide for continuing care for your elderly parents or other dependents?
- ✓ Provide for the care of your pets?
- ✓ Avoid or minimize estate taxes?
- ✓ Include charitable planning as part of your estate plan?
- ✓ Keep the overall cost of creating your estate plan and settling your estate as low as possible?

until after your death. It sits there with nothing in it until your Will "pours-over" your assets into the Trust when you die. This method doesn't avoid Probate administration of your estate, but it avoids ongoing oversight of the Trust assets by Probate Court. Young families with minor children use this sometimes if they can't yet afford or justify a more comprehensive Trust.

Regardless of whether your best path is a Will or a Trust, one of the most important decisions you need to make is choosing "helpers" to carry out your wishes. These include Executors, Guardians, Trustees and other agents who play specific roles in carrying out the goals of your estate plan. They are like "designated drivers" who take over for you if you can't function anymore. We'll talk more about these helpers later.

In the final analysis, the real focus is not about which *document* you use, but about the *results* you want to achieve. It all gets back to knowing your destination first. If you don't know where you intend to go, you're going to wander aimlessly lost in the woods and no document is going to help you find your way.

The Back Roads through Probate

Everybody seems to hate Probate. You'd think it's a four-letter word! There are enough Probate horror stories floating around to make a scary Halloween movie. The truth is that most of those horror stories are about bad estate planning, not "bad Probate."

Amazingly, while millions of people cringe at the thought of Probate, few do any real planning to avoid it. Those who try often fail to do it right, making matters worse. Before you decide that your life's purpose is to avoid Probate, you should probably know a little more about what it is. Probate avoidance may be a worthy goal, or it could be an unjustified fear.

Probate is a court proceeding to oversee the management and distribution of a person's assets when that person is not capable of handling it. The Ohio Revised Code governs every aspect of Probate proceedings, so you can't just pick and choose what parts you want to do. You have to follow the procedures that the law requires.

In most cases, Probate is an administrative proceeding, which means it is all paperwork. The Court's role is simply to oversee that your "helpers" (Executor or Guardian) are doing what they are supposed to do. Rarely does anyone have to appear personally in Court in front of

the judge, unless disputes with creditors or among beneficiaries turn it into an adversarial proceeding.

Probate applies to three circumstances: (1) children under age 18 without a living natural or adoptive parent; (2) incompetent adults; and (3) estates of dead people. In all three of these situations, the person isn't capable of handling their own financial affairs. Someone has to act on that person's behalf. Just because you're the person's surviving spouse doesn't mean you can automatically do anything you want. You still have to follow the Probate process.

The way you determine whether you are going to be subject to Probate is by how you hold title to your assets. Probate governs all assets that you own in your personal name without any beneficiary designations. It doesn't matter if it's ten assets or one. It doesn't matter how much the asset is worth. Anything you own personally goes through Probate.

Rules of the Road

Even though the administrative process is just "paperwork," it involves lots of details. First, you have to file the correct paperwork to have the Court appoint the Guardian, Administrator or Executor (for convenience, we'll call them the "Personal Representative"). They may have to post a bond, which is an insurance policy to protect against the Personal Representative stealing things. You can waive the bond requirement in your Will, but a Guardian and Administrator will usually have to post a bond.

The Court requires the Personal Representative to file an inventory of every asset in the case, including the exact value of each asset. That may require hiring an appraiser. The Personal Representative also has to file detailed accountings of every financial transaction that takes place. The accounting must balance to the penny, and it has to include receipts or cancelled checks to support everything the Personal Representative paid.

Well, if your head is spinning by now, this is just a broad overview of the Probate process. It's actually much more detailed. To top it off, almost everything you file in Probate Court is a public record, so anyone can look at it. Estate tax returns and certain Guardianship papers are some of the only exceptions.

Most people get frustrated with the Probate process because they don't understand *why* you have to go through all that mess. In many cases, it seems unnecessary. Just remember, lawyers don't make the rules, we just help you follow them. The law is the law.

Probate does have a purpose. As we said earlier, the Court's job in most cases is "oversight." The process assures that everyone – Beneficiaries and creditors – gets full disclosure of what's happening so they can protect their interests. It also makes sure that the Personal Representative does what he or she is supposed to do, instead of squandering the assets or cheating a creditor or Beneficiary. Finally, it assures that the creditors and Beneficiaries actually receive what they are entitled to get.

If everyone in the world were completely honest and upstanding, we probably wouldn't need Probate. Honest people were not the targets of Probate laws. The few "bad apples" spoil it for the rest of us. There's no way to tell up front who's honest and who's not, so Probate applies across the board to everyone (unless you figure out how to get out of it by taking a different road!).

Here's a little primer on some Probate "legal jargon" you may hear. If you are dealing with a minor or an incompetent person, the Probate proceeding is a "***Guardianship***." The minor or incompetent person is the "***Ward***" and the person in charge is the "***Guardian***." You can have a "***Guardianship of the Person***" (meaning the Guardian has physical custody of the Ward) or a "***Guardianship of the Estate***" (meaning the Guardian has authority over the Ward's assets). Most times, a Guardianship involves both the person *and* the estate.

The Probate proceeding for a deceased person is a "***Decedent's Estate***." The "***Decedent***" is the person who died. If the Decedent didn't have a Will, the person in charge is the "***Administrator***" of the estate. The "***Executor***" is the person in charge of the estate for a Decedent who died with a Will. An Executor usually has more authority to do things without the Court's permission, if the Will gives the Executor that power. An Administrator has to get permission from the Court for everything. Obviously, a Decedent's Estate only involves financial things because there's no one over which you can have physical custody.

Probate is actually good, if not essential, in some cases. There are a lot of dysfunctional families who are going to bicker about everything no matter what. Or, you may have some sticky creditor issues to resolve. In those cases, having Probate Court as a referee to keep the peace may be the only way to get things settled. Besides oversight, the Court's purpose is to resolve disputes. So if you anticipate disputes, Probate may be the way to go.

There are two other important things to remember about Probate. First, if a Will is the centerpiece of your estate plan, you *are* going through Probate. A Will is never the right road to follow if one of your goals is to avoid Probate. Second, it's usually much more expensive to settle an estate through Probate than outside of Probate. You need to keep the settlement cost in mind because it ultimately affects your Beneficiaries' bottom line.

Here's the real kicker. Probate is a *completely voluntary* process. There's no law that says that you *have* to run your estate through Probate when you die. You don't even have to go there if you become incompetent while you're alive. There are ways to avoid Probate, but you have to have an effective, proactive plan to get yourself out of Probate. You can't just decide after the fact that you don't want to do Probate.

Going through Probate is just one direction you can follow. There's nothing wrong with it, as long as you understand what you are getting into. Likewise, there's nothing wrong with wanting to avoid Probate. At least now you have a logical reason for your decision.

You Think You Know a Shortcut?

Everybody loves shortcuts. There are several shortcuts in estate planning, all of which focus on avoiding Probate. So, we often refer to them as "Probate shortcuts." Some people use them as "do-it-yourself planning."

Probate shortcuts can work well in the right situations. In many cases, however, they're like a kid playing with matches. Maybe you'll be lucky and nothing bad will happen. Perhaps you'll just get a little burn. If you're not careful, though, you could torch the whole house and end up with a real mess.

A Probate shortcut is just a special way of titling your assets so they go directly to someone else when you die without going through Probate. The law says that if you title your assets certain ways, ownership of those assets will automatically pass to someone else. There has to be either a statute that lets you do that or it has to be part of a contract that controls the asset.

There are three basic categories of Probate shortcuts: (1) joint and survivorship ownership; (2) beneficiary designations; or (3) payable or transfer on death designations. All three accomplish the same goal of avoiding Probate when you die.

Joint and survivorship titling means that two or more people own an asset as joint owners, but when one of them dies, his or her interest automatically goes to the surviving owner or owners. You have to use the right language to make it work. It doesn't work for every type of asset, but it's common with bank accounts, investment accounts and real estate. Married couples use this a lot, but you don't have to be married to use it.

Beneficiary designations are common with life insurance and retirement plans, like 401(k) plans and IRAs. It's just a supplement to the contract that states who gets the proceeds when the owner dies. Usually, you name a primary beneficiary and a contingent (backup) beneficiary in case the primary is deceased.

Payable or transfer on death designations work the same way as beneficiary designations. This shortcut is a result of specific statutes and only applies to certain types of assets, mostly bank accounts, investment accounts, cars and real estate. Unlike other beneficiary designations, payable or transfer on death designations often don't allow backup beneficiaries, except in some circumstances.

There are two main benefits of Probate shortcuts. On the front-end, they're fast, easy and cheap to set up. On the back-end, they're fast, easy and cheap to settle. In between, there's really nothing to them.

That sounds fantastic! And it can be – *IF* you use them correctly. The question is, do you *really* understand the legal consequences of the shortcuts you use and whether

they're appropriate for your situation? If not, you're playing with fire that could destroy your estate plan.

No matter what type of estate plan you use, it's important to title your assets in a way that's *consistent* with your plan. You can't have an estate plan that says one thing, then title your assets to do something different, and still expect the plan to work. That's not an effective way to accomplish your goals. In fact, the fastest way to mess up your estate plan is to mix in a few incorrect Probate shortcuts.

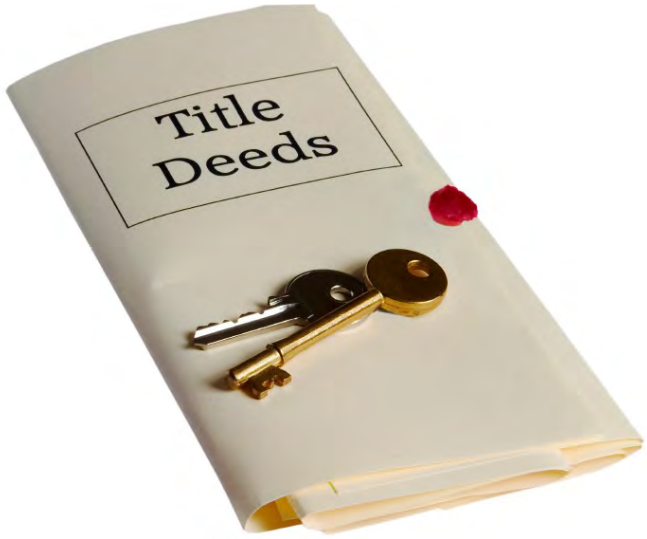
Let's look at the downside to Probate shortcuts. Most importantly, planning asset by asset is never a smart thing to do. It results in incomplete planning and rarely accomplishes all of your goals, other than avoiding Probate. Even then, piecemeal planning only avoids Probate on those particular assets that you title in a shortcut form, so everything else ends up going through Probate anyway.

From an estate settlement standpoint, Probate shortcuts don't provide any source of funds for the estate to pay the decedent's final debts and estate taxes. The money goes directly to the Beneficiaries. Good luck getting them to kick back their share of the funds to pay anything.

Joint and survivorship arrangements are too risky to use for anyone other than a married couple. The other owner has immediate rights in the asset, which may expose your assets to creditors of the joint owner. It could also tie up your assets if the joint owner (who is not your spouse) gets divorced. If you're looking for a convenient way to add someone other than a spouse to an account to help you manage your money, there are better ways to do it than with a joint and survivorship account.

Beneficiary designations are only death planning. They don't help you out if you become incompetent. If you have any special planning goals concerning your Beneficiaries – like protecting their assets against creditors or future divorce – beneficiary designations paying directly to the Beneficiaries won't help because they will get the asset outright. Likewise, outright distributions may not be the best tax planning method for retirement plan assets. All of these problems apply to payable or transfer on death designations, as well.

Perhaps the biggest problem with all of the Probate shortcuts is they do not always match the way you planned to divide your assets among your Beneficiaries in your



estate plan documents. Poor planning can have unintended consequences, such as disinheriting some intended Beneficiaries. Suppose you name your three kids as Beneficiaries in your Will, but for convenience you only put one child on your bank account jointly with rights of survivorship. That child gets the whole account when you die, regardless of what your Will says, and your other kids will not get their intended share of that account. You have inadvertently disinherited your other kids.

The same problem is common with beneficiary designations and other Probate shortcuts. As you can imagine, inconsistent distribution patterns between your estate plan and Probate shortcuts can cause friction and nasty disputes among Beneficiaries.

Married couples often think that Probate shortcuts are the solution to everything. In reality, they only solve *half* of the Probate avoidance problem. When the first spouse dies, the surviving spouse gets everything without going through Probate. Now, the assets are in the surviving spouse's name alone, so when he or she dies everything goes through Probate. Shortcuts often create a false sense of complete planning when really it's not.

Probate shortcuts are important estate planning tools, but you can't use them haphazardly. They have to fit in with your overall estate plan, or you may not accomplish your goals or get to your desired destination. Some of your Beneficiaries may be disappointed with the results.

If you want to take a shortcut to avoid Probate, just be sure you get good legal advice on how to do it correctly. The best use of Probate shortcuts is when you use them to accomplish specific objectives that are already in your estate plan. Standing alone, shortcuts are rarely a good idea.

The Trust Superhighway

So how can you avoid Probate and have an effective estate plan without the risks that "Probate shortcuts" pose? An excellent choice for many people is a Revocable Living Trust. Before you write off this suggestion as a stupid idea, take a little time to learn what a Trust is and what it can do for you.

First, remember that a Trust enables you to avoid Probate if you correctly title your assets into the Trust while you're alive. Probate only applies to assets that you own in your personal name. So, if you re-title every asset you own into your Trust correctly, you won't have anything in your personal name if you become incompetent or when you die. The assets are all in the Trustee's name. That's how a Trust avoids Probate.

Who in their right mind wants to give everything they own to some Trustee right now just to avoid Probate? Well, the idea makes a lot of sense once you understand the structure of a Trust. Let's look at some Trust basics (we're just talking about Revocable Living Trusts here).

A Trust is just an agreement for the management and distribution of your assets. As we explained earlier, it's like a book of instructions. You tailor it to your specific circumstances to reflect your goals for your family. It is your family's roadmap to a secure future, and you can make it as simple or as complex as you want.

Travel Companions

Every Trust has three main players. The "Grantor" is the person who creates the Trust. The "Trustee" is the person who manages the Trust. A "Beneficiary" is the person who benefits from the Trust.

Grantors have the most control over a Trust because they're the ones who decide what it says. They can keep a lot of control, too, by reserving the right to amend the Trust later if they change their mind about how they want it to work. If they decide they don't need the Trust anymore, they can terminate it. Grantors control the Trust as long as they're alive.

Trustees don't have the right to change the Trust – they just carry out the instructions in the Trust., as written Choosing a good Trustee is important because they have to act in the best interest of the Beneficiaries according to the Trust's terms. A Trustee can be a real person or a corporate Trustee, like a bank or trust company. A Trust can have one Trustee or several working together.

Beneficiaries enjoy the fruits of the Trust. After all, the Grantor created the Trust for their benefit. A Trust can have one Beneficiary or many. Usually, the Beneficiaries are people, but they can also be entities, like charities, or

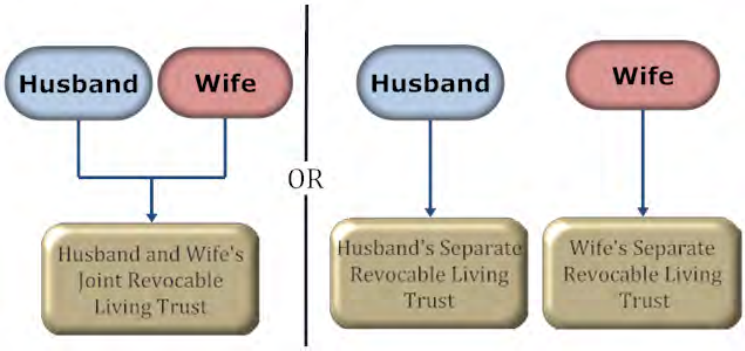
even pets. The Beneficiary who gets the immediate benefits of the Trust is the "Current" Beneficiary. A "Contingent" Beneficiary is one who gets benefits after some event happens, like after a Current Beneficiary dies.

Typically, in a Revocable Living Trust *you* are the initial Grantor, Trustee and Beneficiary all at once. You create the Trust, name yourself as Trustee and are the sole Beneficiary as long as you're living. No one else takes over as Trustee unless you become incompetent or die. No one else becomes a Beneficiary until after you die.

You retain exclusive control and benefit over every aspect of your Trust, which is why it's no big deal to put all of your assets in the Trust. You have as much control over your assets in your Trust as you would if you owned them personally. While you're alive, you don't even need a separate taxpayer identification number for your Trust, and you don't have to file any different tax forms. Your Trust uses your Social Security Number and you keep filing taxes on a Form 1040, just like before.

The beauty of a Trust is that it's effective immediately and works for the rest of your life. There's no waiting around to die, like with a Will. If you happen to become incompetent, the Trust continues for your benefit, although a "Successor" Trustee will take over the management of the Trust. When you die, the Trust can continue for the benefit of your "Contingent" Beneficiaries (such as your spouse, children or grandchildren) for as long as you want it to last.

A Trust can be a "Separate Trust" or a "Joint Trust." The only difference is that a Separate Trust has one Grantor and a Joint Trust has two. A person who is not married would always use a Separate Trust. In Ohio, however, married spouses can own property separately, so



they can create Separate Trusts, too. A married couple also has the option to form a Joint Trust.

It's usually best for a married couple to use Separate Trusts if they have children from different marriages, or if they want the flexibility to have different Trust terms to accomplish different goals. Separate Trusts can also give a married couple better creditor protection if one spouse works in a high-risk profession, such as a doctor. Joint Trusts work best when the couple has a long, stable marriage, no high-risk jobs and all of their goals are identical.

Designing a good Trust involves planning for lots of different contingencies. You never know for sure what's going to happen, so it's best to think things through and address as many possible situations as you can in your Trust. If they happen, you'll have successfully controlled the outcome the way you want. If they don't happen, then you wasted a few words on the paper, but no one got hurt.

It's a lot like packing to go on vacation. You can throw some extra "sweaters" in your suitcase, just in case you need them for those unforeseen circumstances. Pack as many or as few as you want. If the weather turns, you'll be glad you thought ahead and prepared for the worst.

Here's where there is a *huge* difference between a Will and a Trust. Going back to our earlier discussion on the objectives of estate planning, a Will and a Trust both give you the power to "*give what you have to whom you want*" when you die. Where they differ is in distributing your estate "*when you want and in the way you want*."

A Will gives you only one choice of how to distribute assets to your Beneficiaries. At the end of Probating your estate, the Beneficiaries get their inheritance outright, in a big lump sum. At that point, it is theirs to spend as they please. Some statistics indicate that the average inheritance only lasts about 18 months before it is gone.

A Trust not only lets you decide who gets what, but also gives you maximum flexibility to decide *when* and *how* they get it. This flexibility gives you an opportunity to address specific goals that are unique to your family and provides almost unlimited options on how you structure a Beneficiary's inheritance. You don't have to do what everyone else does. You can do what's right for you.

A Trust allows you to mix and match Beneficiaries any way you want. You can easily make special bequests of money or particular assets to as many people as you want. You can include special provisions for continuing the care of your elderly parents if they need your help after you're gone. Instead of disinheriting a potential

Beneficiary with special needs, you can tailor provisions in your Trust to enhance the quality of their life without disqualifying them from government benefits.

If you're married, there are many different ways to design Trusts for your surviving spouse. The usual desire is to provide for the spouse for the remainder of his or her life. You can do so in a way that minimizes estate taxes and guards against future creditors. You can even build in protections so if your spouse remarries, the Trust will be there to support your spouse, but it won't end up going to the new spouse.

As for your Contingent Beneficiaries, the possibilities are endless. It would take forever to discuss all the variations. So, let's just look at a sampling of some common options for distributing Trust assets to Contingent Beneficiaries after you're gone.

Outright Distributions

You can make outright distributions to Beneficiaries in a Trust just as easily as you can in a Will. The advantage of doing so in a Trust is that you can avoid Probate. That can put more money in the Beneficiaries' pockets instead of in the Probate lawyer's pocket.

A better way of doing this, however, is to structure each Beneficiary's Trust Share so that the Beneficiary has an unlimited right to withdraw income or principal whenever they want. This gives Beneficiaries control over when is the best time to take their inheritance. Rather than force it on a Beneficiary at what may be a bad time, you can instead give the Beneficiary the power to decide when is the right time to withdraw.

Common Trust Share

When some or all of the Beneficiaries are not yet adults, it may be a good idea to hold the Trust assets in a single "Common" Trust Share for a while. Some attorneys call this a "Pot" Trust because you keep everything in one "pot" for the mutual benefit of all of the Beneficiaries temporarily. The idea is to wait until the youngest Beneficiary reaches an age at which you believe he or she should be self-sufficient before you split the "pot" into Separate Trust Shares for each Beneficiary. That's probably a better reflection of what you would have done if you were living.

Staggered Over Ages

You can let the Beneficiaries get their feet wet with their inheritance by spreading their Trust distributions out over a series of ages. Consider giving them a small percentage first, then a larger percentage a few years later, and so forth. If they squander the first distribution, hopefully they will learn from the experience and be more responsible when the next distribution comes. Between large distributions, you can authorize the Trustee to make smaller distributions for the Beneficiary's health, education, maintenance and support.

Staggered Over Years

An alternative to staggering distributions at particular ages is to measure the distribution periods from the date the Trust splits into Separate Shares. It's the same principle as making distributions at particular ages. Instead of saying the Beneficiary gets "x" percent at age 25, you say they get the first distribution of "x" percent upon creation of the Separate Share, "y" percent five years later, and so on. This may be a good option if your Beneficiaries have decent jobs and you want them to rely on their own efforts for support instead of their inheritance.

Milestone Distributions

You can also encourage particular achievements that may be important to you, like graduating from college. Some people refer to these as "Incentive Trusts," but it's really just a special distribution structure within your Trust. When your Beneficiaries reach certain milestones in their life, you can reward them with a nice Trust distribution. If they don't reach those milestones, you don't have to disinherit them, but maybe they just have to wait a little longer.

Values Promotion

Many families have certain values that are important to them. You can structure Trust distributions to your

Beneficiaries as a way to promote those values. In this way, you're using the inheritance to instill your important values in the Beneficiaries. Or, you can flip it around and structure the Trust Shares to provide a disincentive for bad conduct. You don't have to disinherit a Beneficiary if they don't follow your values. You just alter the distribution pattern based upon the Beneficiary's conduct.

Multi-Generational Planning

If you really want to leave a powerful inheritance, consider Multi-Generational Trust Shares. You'll hear a million different names for this: "Dynasty Trusts," "Generation Skipping Trusts," "Heritage Trusts," and so forth. While they can be separate, standalone Trusts for complex estate tax planning, you can also use them as a distribution pattern in Trust Shares for your Beneficiaries in your own Revocable Living Trust – even if you don't currently have estate tax problems.

A Multi-Generational Trust Share is a protective fund that the Beneficiary can use and enjoy without ever actually owning it. If they use it wisely, it will continue to grow. Since the Beneficiary doesn't actually *own* it personally, however, creditors of the Beneficiary can't take it, an ex-spouse won't get any of it in a divorce, it never goes through Probate and the IRS won't be able to steal half of it through estate tax when the Beneficiary dies. "Multi-Generational" just means that whatever remains when the Beneficiary dies automatically passes down from generation to generation – fully protected – until finally there is nothing left.

Here's the important thing to understand: You don't measure true "wealth" by what you *own*, but by what you *control*. If you have the exclusive right to use something, who cares if you don't actually own it? It's still essentially yours. But all the bad things in life – lawsuits, divorce, Probate, estate tax – only touch what you *own* personally. In order to avoid the bad stuff, don't "own" much.

Some people frown on Multi-Generational planning as being "mean" to your Beneficiaries. Who would want to hold everything back from them, or try to control them from the grave? In reality, as a Beneficiary it's the ultimate way to inherit. They get to have their cake and eat it, too! And no one else can touch their cake, either.

Planning with Special Assets

Some assets you own may require special attention. Traditional qualified retirement plans (401(k) plans, IRAs, etc.) are strange little creatures – great to have while you're alive, but difficult to deal with after you die. The combined effect of federal and state estate tax and income tax can eat them alive, leaving your Beneficiaries with little left. You need to pay close attention to how you integrate your retirement plans with your estate plan.

There are ways to lessen the impact through your Trust if you do it right. For large retirement plans, it is often better to use a separate special Trust. The goal is to "stretch-out" the retirement plan distributions over the Beneficiaries' lifetimes to defer the income tax liability. You can essentially turn your retirement plan into a retirement plan for your Beneficiaries.

Special Needs Planning

What if you have elderly parents, or a mentally disabled child, who depend on your for support? If you die, are you going to give everything directly to them and disqualify them from Medicaid or other government benefits? Or are you going to disinherit them so they don't lose their benefits?

With a Trust, you don't have to choose either option. You can create a Special Needs Trust Share that gives the Trustee complete discretion over all income and principal in the Trust Share. Since the Beneficiary never actually owns or controls the Trust assets, they don't count as an available resource for the Beneficiary. The Beneficiary can remain eligible for government benefits to cover essential needs, and the Trustee can use the Trust assets to enhance the quality of the Beneficiary's life beyond what the government benefits cover.

Tangible Personal Property

It's common for people to have items of tangible personal property that they want to give to particular Beneficiaries. The items may be valuable, or perhaps they're family heirlooms with sentimental value. Putting a name on masking tape on the back of a picture doesn't work, at least if you want your wishes to be enforceable. You can make special bequests of your "stuff" in a Will and it will be enforceable in Probate court. The problem is that if you change your mind, you have to change your Will.

Summary of Most Common Trust Distribution Options

Unlimited Access

- Beneficiary can take out income or principal any time

Staggered at Ages

- Trustee has discretion over income and principal
- Beneficiary can withdraw specified percentage of principal at stated ages

Staggered at Years

- Trustee has discretion over income and principal
- Beneficiary can withdraw specified percentage of principal at various intervals after creation of Trust Share

Milestone Distributions

- Distributions are tied to Beneficiary reaching achievements that you believe are important

Values Promotion

- Distributions are structured as incentives to promote desired conduct, or to discourage bad conduct

Multi-Generational ("Dynasty") Trust Share

- Trustee retains discretion over income and principal for multiple generations
- Trustee makes distributions for any purpose the Trustee deems appropriate
- Eliminates all future Probate and estate taxes, and maximizes creditor and divorce protection for Beneficiary

Special Needs Trust Share

- All distributions are at the Trustee's sole and absolute discretion
- Trust assets are not considered available resources, so Beneficiary remains eligible for government benefits
- Trust used to enhance Beneficiary's quality of life

Special bequests are easier to make through a Trust. Since a Trust is just a contract, you can attach an addendum to it specifying who gets what jewelry, heirlooms and other special trinkets you have. All you have to do is include a provision in your Trust to direct the Trustee to pass those things out according to the list you create. If you change your mind, just make a new one. You don't need a lawyer to do that.

Charitable Bequests

You can also get creative with charitable bequests in a Trust. Sure, you can make lump sum charitable gifts in a Trust just like in a Will. But in a Trust, you can also defer the charitable bequest while one or more Beneficiaries get the income for a while. Or you can do it backwards by giving the charity the income for a while and then let the Beneficiaries have the principal later.

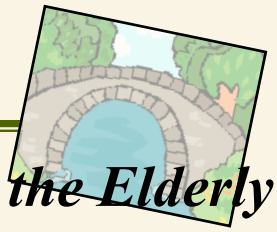
No matter what type of distribution pattern you use, you can also help the Beneficiaries gain financial maturity and experience by letting them be a Co-Trustee of their Trust Share. Working with a more experienced Co-Trustee may help them learn the ropes. It's like giving them a financial mentor when you're not there to fill that role. As Co-Trustee, the Beneficiary will have a sense of responsibility and control over his or her Trust Share, too.

Trusts provide countless other advantages. Because of their flexibility, you can creatively plan for "blended families," minors, disabled and elderly Beneficiaries. You can protect a Beneficiary's inheritance from the ravages of a divorce or the jaws of a lawsuit creditor. Trusts make it much easier to do special planning for business or real estate interests, as well as planning to minimize estate taxes. And you can do all of this privately outside of Probate at a much lower cost to settle your estate.

There are a few drawbacks, but they're trivial compared to a Trust's benefits. Trusts cost more to create upfront and the design process requires a lot more thought and effort. That pays off in the end when your family has a much more thorough plan that costs significantly less to administer after your death. The biggest barrier for Trust planning is psychological – getting over the notion that you're not rich enough to need a Trust. Mental blocks hold many people back from having a great estate plan.

Trusts are a powerful way to guide your family to a more stable and secure future faster, less expensively and with greater certainty. You won't find a more flexible way to express your estate planning goals.

BRIDGING THE GAP



Important Estate Planning Considerations for the Elderly

What is the Gap?

People commonly associate estate planning with old age. In reality, there is no "magic age" when estate planning becomes important – everyone needs a good estate plan, young or old. When you approach retirement age, however, your estate planning considerations change. The traditional factors that we've already discussed remain important, such as family dynamics, probate avoidance, estate tax liability and distribution options. On top of those, you now have to consider the broad spectrum of issues that affect our aging population.

After retirement, your life adjusts dramatically and your estate plan should, too. You could create the most creative, comprehensive estate plan possible – addressing all of your unique goals for after you pass away. But if that plan does not contemplate the "gap" between the moment you walk out of your estate planning attorney's office and the moment you pass away, then your plan is incomplete. *Life* happens in that gap.

Life in your Golden Years can get quite expensive and, without a good elder plan, you may not have anything left when you die to pass through your wonderful estate plan. You may say, "Great! That means I will have enjoyed my property to the fullest. It's ok if nothing passes to my intended Beneficiaries." While that mindset is completely acceptable – everyone should get to enjoy what they've worked for! – there is no guarantee that your hard-earned assets will even last long enough to sustain *your* quality of life during the gap… unless you plan accordingly.

For some people, retirement and aging might mean downsizing to a more accessible home or senior living community. For others, it could mean altering your home to make it more senior-friendly. You're no longer working, or possibly just not working as much, so ensuring that you are financially stable is imperative. Unfortunately, pensions, IRAs and Social Security are not always enough to cover all of the costs you might incur in your Golden Years.

Perhaps the biggest obstacle in planning for this period is budgeting for long term care expenses. It's easy to ignore the possibility of needing long term care, but in reality about 2/3 of people over age 65 will need some sort of long term care. On average, men receive long term care for 2-3 years, while women will need it for about 5 years. The rising rates of dementia and Alzheimer's have made long term care needs even more prevalent, and such patients often need long term care for twice as long as those with physical ailments. The average nursing home in Ohio costs $6,905+ per month. You can easily see how quickly this could deplete your life savings.

Elder planning encompasses all of these considerations. The focus is on creating a comprehensive *life* plan to give you peace of mind to enjoy your retirement.

The Ant and the Grasshopper

Much of elder planning centers around protecting assets to ensure that they will last at least as long as you last. Some people are morally opposed to some aspects of elder planning because they believe it is just a shortcut to Medicaid qualification, enabling them to become a burden on the state. If you've worked hard and saved for retirement, you don't have the right to *plan* to qualify for government benefits, right? Well, moral opposition to elder planning is usually fueled by some common misconceptions relating to Medicaid and elder law in general, so let's go ahead and clear those up right now.

Let's look at it in terms of the old fable of the Ant and the Grasshopper…***There once lived a carefree Grasshopper and an industrious Ant. The Ant worked all summer, saving grain to get him through the cold winter. The Grasshopper spent his days singing and dancing, paying no thought to how he would survive the***

winter. When winter came, the Ant rested comfortably in his home, secure because his hard work would see him safely through the winter. The Grasshopper was struck with the grim reality of the consequences of his failure to plan. He was left hungry and cold, with no more songs in his heart nor dance in his feet.

We are too compassionate to punish the Grasshopper for his lack of planning. It would be morally wrong to abandon him in his time of need. Instead, we offer him public assistance to get him through the hard winter months. Unfortunately, we often focus so much on the Grasshopper that we give no thought to how we treat the Ant.

Many senior citizens in Ohio have worked their entire lives to build a solid foundation for their families. They scraped and saved and diligently planned for their retirement, proud of the legacy they would one day leave. They are our Ants. If they need nursing home care, why should they be forced to sacrifice the legacy they worked so hard to build… when we allow the Grasshoppers to receive the same care at Medicaid's expense? It would be unfair to expect an Ant to put himself in the position of a Grasshopper before we are willing to help him.

MYTH: In order to receive Medicaid, you must deplete all of your own assets.

Medicaid is a need-based program meant to cover certain care costs of qualified applicants, but it is not true that an applicant must impoverish himself in order to qualify. The Medicaid regulations provide several planning options for applicants, allowing them to preserve a legacy for their families while still qualifying for Medicaid benefits.

With the proper counseling, you can ensure that you don't have to use all of your hard-earned assets to cover the high costs of home care, assisted living and nursing homes. A solid asset protection plan, especially when implemented far enough in advance, can preserve most — if not all — of a person's assets.

MYTH: Elder planning is all about Medicaid.

Elder planning is not always Medicaid planning. In fact, often the goal of elder planning is to *avoid* needing to apply for Medicaid! Medicaid is simply the framework we use to develop a good elder plan. We use Medicaid's rules and regulations to decide the best course of action for each client – not so we can get every client on Medicaid, but so we don't inadvertently disqualify a client for Medicaid, in case they need it down the road.

REALITY: Taking care of the Ant is just as important as taking care of the Grasshopper!

Medicaid regulations do not punish senior citizens who create proactive, successful elder plans. Instead, Medicaid allows several methods of rewarding those people by ensuring that they can pass their legacy on to their families.

The catch is, Medicaid caseworkers will not be quick to explain those options to the average Medicaid applicant. It's just like tax avoidance. It's not a crime to create a plan to minimize your tax liability—but don't expect to walk into the IRS office and have them give you tips on how to do so. That's not their job. Instead, our industrious Ants need to make one more diligent, responsible planning decision: consult with a qualified estate planning and elder law attorney to develop an elder plan *before* a crisis strikes.

Pre-Planning vs. Crisis Planning

It's really never too soon to start thinking about elder planning. The *best* time to plan is at least five years before you need any sort of long term care. So, grab your crystal ball and mark that date on your calendar. If only it was that easy!

We recommend that all of our clients continually revisit their estate plan to make sure that it matches their current goals and circumstances. As you approach retirement and revisit your estate plan, you should start considering your elder planning options as well. The earlier you plan, the more successful your plan will be.

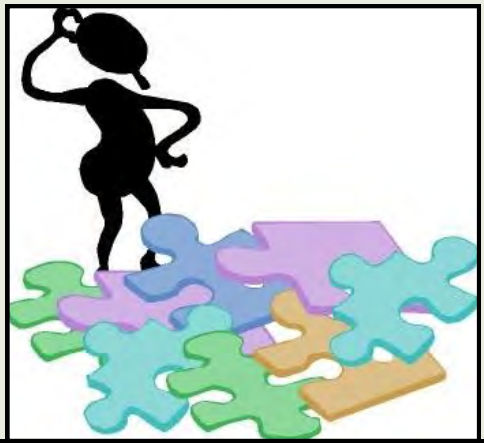
Long Term Care Insurance

Perhaps the biggest benefit of planning early is the ability to qualify for long term care insurance ("LTCI"). As attorneys, we do not sell LTCI nor get any benefit when our clients purchase it – but we know that it is one of the best complements to an elder plan. A legal elder plan coupled with good LTCI is priceless. It is the best way to protect as much of your assets as possible, ensuring that those assets are available for you to enjoy for the rest of your life, and then pass on to your Beneficiaries.

The older you get, the more likely you are to have health issues. Age and health complications make it harder and more expensive to get LTCI. There are many types of LTCI on the market today, so a traditional, premium-based policy is not your only option – though those plans are certainly good ones. You can find a plan that meets your needs. There is no reason to wait. Start shopping, find a good plan and take advantage of the opportunity to protect yourself and your family from lots of stress and expense.

There are far more planning options available when you plan before you have a foreseeable need for long term care ("pre-planning"). One major reason is the availability of long term care insurance. Another major reason goes back to our "Medicaid framework" for elder planning. When someone applies for Medicaid, the government will look back at five years of that person's financial records. Any gifts (or "improper transfers") made during that time will create a "penalty period" for the applicant, during which time the applicant cannot receive benefits.

This five-year look back period tends to create a mountain of problems for many Medicaid applicants. Because one goal of elder planning is to ensure we do not *disqualify* a client for Medicaid if the need arises, it is better to plan with more than a five-year cushion.



Crisis planning arises when a long term care need is imminent. This could be because a health crisis strikes without warning, or because someone thought they'd have more time to pre-plan down the road. Often, people seek assistance with a crisis plan after they've already received long term care for some time, and are realizing that they will not be able to afford it much longer. Whatever the circumstances, it is always true that there are fewer options when it comes to crisis planning… but it is also always true that there are at least *some* options.

Where pre-planning focuses more on exploring alternatives to Medicaid without disqualifying you for Medicaid in the future, crisis planning usually focuses on Medicaid qualification. In a crisis, you most likely will not qualify for long term care insurance, but there are still some other legal routes you can take. In the end you will most likely not be able to protect as much as you would have in a pre-planning case, but having a plan is always better than not having one at all.

Types of Benefits

If your crisis plan centers on getting government assistance with your long term care expenses, there are many avenues to get you there. Most of the time, these programs all fit together like a big puzzle to give you the benefits you need. Let's discuss some of the most commonly used government healthcare benefits.

Medicare is an age-based insurance benefit that focuses on medical expenses. There is no "need" requirement – which means everyone, regardless of net worth, can receive it. You can begin to receive Medicare upon turning age 65. There are several "parts" to the Medicare program, and some require additional premiums on top of the regular Medicare benefits. It is very important to speak with an insurance agent who specializes in Medicare when you reach 65, so you can make sure you make the most of this program.

Medicaid is a need-based program that focuses on non-medical expenses. Medicaid has *many* programs for people of all ages, but we will focus on Medicaid for people over age 65. In general, to determine eligibility Medicaid looks at your health, income, assets and transfers you've made in the

past five years. Contrary to popular belief, Medicaid is not all about nursing homes. It has programs to help with the cost of home care, assisted living and nursing home care. In fact, Ohio adjusted the Medicaid budget to focus more on non-nursing home programs because people prefer to stay home longer (and it is cheaper for the state).

Regardless of which program fits your needs, it is always a good idea to consult with an attorney *before* applying for benefits. Timing is everything when it comes to applications, and those filed too early can severely impact eligibility. The rules are very complex and ever-changing, so make sure your attorney focuses on elder law and estate planning. Remember, Medicaid caseworkers are not likely to point out your planning opportunities, so be sure you have an advocate on your side who can help you navigate the murky Medicaid waters.

Veteran's benefits are another excellent resource for many people. Some veteran's benefits focus on service-connected disabilities, but there are many benefits available to generally aging veterans. These benefits are available to honorably discharged veterans over 65 who served at least 90 days of active duty, at least one day of which was during a period of war. Much like Medicaid, these benefits are need-based. The Veteran's Administration will evaluate eligibility and the amount of the benefit based on the veteran's family circumstances, health, income and assets.

Make Your Golden Years Truly Golden

Elder planning is as much about your family as it is about you. Like with most estate planning, the amount of thought you put into your plan bears a direct relationship on the amount of stress and expense that your family will experience if you get sick and need long term care.

Families commonly feel a sense of duty to take care of their aging relatives, so why not create a plan to help your family care for you the way you want? That way, you're well taken care of and they can enjoy their time with you instead of worrying about who pays the bills. Be proactive about your planning, before your child or your spouse quits their jobs or sacrifices their own health to care for you.

Having a good elder plan in place will allow you to enjoy your retirement fully. After all, you've earned it! Whether it means travel, fishing, golfing, time with family or taking up a hobby, your retirement should be about celebrating your years of hard work and enjoying the fruits of your labor. While you may not have a crystal ball to tell you what the future holds, at least you'll have the peace of mind that you've planned for whatever life may bring.

Don't wait until you see a crisis on the horizon. Plan now, while you still have the opportunity to create the *best* plan possible.

The Tax Toll Bridge

Uncle Sam always seems to have his hand out for a piece of your pie. Taxes are like a toll bridge to pass on to the "other side" when you die. The bigger your load, the more you pay. Fair or not, that's the way it is. You can't change the system, so you might as well learn a little about how it works.

Here's a critical rule that you need to remember (because most people confuse this point): Taxes apply to your estate whether you have a Will, a Trust or no formal estate plan at all. Avoiding Probate does not avoid any taxes. Probate and taxes are two totally different things.

Three main types of taxes impact estate planning: income tax, gift tax and estate tax. Income tax applies to anything you earn. Gift tax covers what you give away while you're alive. Estate tax covers the value of things you pass on to others when you die. Gift and estate taxes are "transfer taxes" that only strike when you "transfer" something to someone else without being paid for it.

There's also something called the "generation-skipping transfer tax" (or "GST" tax, as people who speak in acronyms like to call it). It's another tax on gifts or bequests that you make to people more than one generation younger than you, like your grandchildren. Multi-Generational planning triggers some GST tax issues. The purpose of the GST tax is to be certain the government gets to extract its pound of flesh from every generation, not just every other one. It's way too complex to discuss in this booklet, but you won't have to worry about it in most cases.

There are also two layers of tax. Federal law imposes taxes through the Internal Revenue Code, which the IRS

enforces. Ohio law also imposes its own taxes separately from federal taxes, meaning they are in addition to your federal tax bill. Fortunately, Ohio doesn't have a gift tax or an estate tax (as of 2013), but it does have an income tax. Even though Ohio tax rates are lower, you can't ignore them because they can have a big impact even on small estates.

We're going to try to summarize the basics of the three main taxes in a few pages, even though the tax codes are tens of thousands of pages. Bear with us here. This stuff is boring, but it's important.

Income Taxes

Income taxes apply to everything you earn. "Ordinary income" is earnings from things like wages, interest and qualified retirement distributions. "Capital gain" is income from the difference between what you pay for an investment and the amount you receive when you sell it. The tax rates are generally higher on ordinary income than on capital gains.

A big income tax issue in estate planning is the tax that the decedent never paid while he or she was alive. Tax geeks call this "income in respect of a decedent" or "IRD." The most common assets that have IRD issues are traditional qualified retirement plans. Since those are "tax-deferred" accounts, no one has yet paid any income tax on whatever remains in those accounts when the decedent dies. So, whoever finally receives the proceeds of those accounts has to pay the income tax when they take it out. Roth plans are a little different.

An inheritance itself is *not* subject to income tax. However, when a Beneficiary inherits an "IRD asset," they assume the obligation for the income tax on that asset. The income tax that the decedent deferred during his or her lifetime doesn't just disappear.

Qualified retirement plans can be the best thing in the world to own while you're alive and the worst thing to have when you die. On top of the income tax, the full value of an IRD asset is *also* subject to estate tax – a double tax whammy! It can be tricky to minimize the impact of income and estate taxes on IRD assets, but there are ways to soften the blow. It requires careful planning.

On the issue of capital gains, you need to understand the concept of "tax basis." Your "tax basis" is the amount that you initially paid for an investment (subject to some adjustments that are too complicated to go into here). For example, if you buy a stock for $1.00, your "basis" is $1.00. If you later sell that stock for $10.00, you have $9.00 of capital gains. You'll owe income tax, at capital gains tax rates, on the $9.00.

Tax basis and capital gains are only important for "capital assets," like stocks, mutual funds, real estate and other forms of investments. Cash accounts, like checking, savings or money market accounts, aren't capital assets for capital gains tax purposes.

Keep the concept of "basis" in mind because it becomes important when we talk about gift and estate taxes. The basis rules change when you transfer an asset to someone else without selling it.

There's one final point to cover on income taxes. When you die, your estate – whether Probate or Trust – will have to do a few things. First, it has to file your final income tax return for income you earned between January 1 of that year and the day you died. Second, it has to get a new taxpayer identification number for the estate or Trust, because your Social Security Number no longer works. Finally, the estate has to file income tax returns for income it earns from the date you die through the date that the Beneficiaries receive all of the assets. At that point, income taxes become the Beneficiaries' problem.

Gift Taxes

Gift tax comes into play if you give anything away while you're alive. The person who gives the gift is the one who has to worry about gift taxes. The person who receives the gift doesn't have to pay any gift tax or income tax on the gift.

Gift tax applies to the fair market value of the gift on the date you make the gift. That's easy to determine if you make a gift in cash or by check, or even if you use publicly traded stock. It's a little harder to determine if

you gift real estate or business interests, so you may have to get a professional appraisal on those.

You can give away a total of $12 million during your lifetime without paying any gift tax. You still have to file a gift tax return, but you don't actually owe any tax unless you exceed $12 million in total gifts. Every person gets this, so a husband and wife can give away a combined total of $24 million without paying any gift tax. These amounts adjust with inflation ($12,060,000 in 2022).

Tax nerds call this the "lifetime gift tax exclusion." We call it your "gift tax coupon" because it works like a coupon at the grocery store. Make the gift, use your coupon and you don't pay anything. The amount that you use up on your gift tax coupon during your life will reduce the amount you have left on a similar coupon you get for estate taxes when you die (more about the estate tax coupon in a little bit).

In addition, there are three types of gifts that don't even reduce your gift tax coupon. One is an "annual gift tax exclusion amount." These are like "free samples" at the grocery. That amount is currently $16,000.00, but it changes with inflation so it will gradually increase in coming years. You can make an annual exclusion gift to as many people as you want each year and it won't count against your gift tax coupon. You don't even have to file a gift tax return to report these (but sometimes it's a good idea to file anyway). Married couples can double-up and give $32,000.00 each year to as many people as they want.

A second exception is anything that spouses give to each other. These are unlimited. When you file your gift tax return, you deduct the gift to your spouse as a "marital deduction." You don't owe any gift tax on it and you don't eat into your gift tax coupon.

The third exception is an unlimited charitable deduction. You can give as much as you want any time you want to charity and never have to pay gift tax. Just take the charitable deduction on your gift tax return and your gift tax coupon remains intact. You will probably even be able to deduct your charitable gift on your income tax return, but there are some complicated rules that may limit your income tax charitable deduction.

Income tax basis is an important consideration when making gifts. If you give an asset to someone, that person gets *your* tax basis in the asset. Your basis "carries over" to them, which is why tax people call it a "carryover basis." If the gift recipient then sells the asset, the capital gains tax is the same that you would have paid if you sold it. Obviously, carryover basis isn't a problem on gifts you make in cash or by check because these are not capital assets.

Gifting can be an important idea to consider in your estate planning. It's a useful way to reduce the value of your estate if you anticipate that you may face estate taxes when you die. If you're going to gift in little chunks with annual exclusion gifts, though, you better start early. It's difficult to make much of a dent in a big estate by giving away minimal gifts each year, unless you do it consistently for many years.

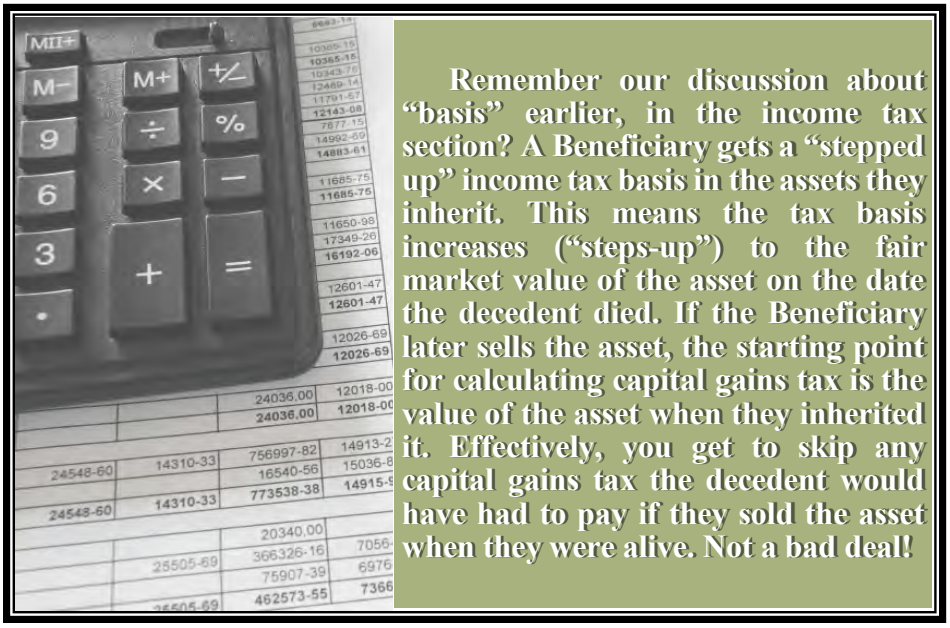
Estate Taxes

Estate tax kicks in when you pass your stuff on to others when you die. Your estate (Probate or Trust) is responsible for paying any estate tax that's due before the Beneficiaries get their inheritance. Generally, Beneficiaries don't personally get the tax bill.

The federal estate tax has changed a lot in the last few years, and we expect that it will continue to change in Tax laws are always under construction. The most recent changes to the estate tax are very favorable to taxpayers, but they're set to expire in 2026. The constant changes make planning hard. Because the rules keep changing, it's critical to build flexibility into your plan. You need to be able to adjust to detours that may pop up in the future.

It's like the difference between driving a car and riding on a train. If you're driving, you're free to change roads, speed up, slow down or turn around if the

government makes a better path. By contrast, if you're riding on a train, you're stuck on that train. There's nothing you can do if the rules change and you would rather be heading somewhere else. In our current tax system, where our elected leaders frequently have chosen to pass a series of short-term patches, having the flexibility to adjust to changes in the law is invaluable.



Remember our discussion about "basis" earlier, in the income tax section? A Beneficiary gets a "stepped up" income tax basis in the assets they inherit. This means the tax basis increases ("steps-up") to the fair market value of the asset on the date the decedent died. If the Beneficiary later sells the asset, the starting point for calculating capital gains tax is the value of the asset when they inherited it. Effectively, you get to skip any capital gains tax the decedent would have had to pay if they sold the asset when they were alive. Not a bad deal!

Federal estate tax applies to the fair market value of *everything* you own, whether it goes through Probate or not. They call that your "gross estate." You get to deduct some expenses from the gross estate, such as your funeral bill, any debts you owe, the costs of your last illness and the expenses of settling your estate.

You also get to deduct the value of everything that you leave to your surviving spouse. As with gift taxes, the estate tax marital deduction is unlimited. So, you can leave as much as you want to your spouse and not pay any estate taxes. However, now the spouse owns everything and isn't married. When he or she dies, there is no marital deduction available. That's when the tax hammer falls.

There's also an unlimited charitable deduction, so there's no estate tax on anything you give to charity through your Will or Trust. Charitable planning is a powerful tool in reducing estate taxes. There are lots of creative ways to make charitable bequests to help achieve your goals.

Each person gets a "coupon" against estate taxes, just as we discussed with gift taxes. Tax people call it your

"applicable exclusion amount," but "coupon" is so much easier to understand and remember. The federal estate tax coupon is currently $12 million ($12,060,000 in 2022), and the top tax rate on anything above that is 40%. You get to exclude that amount from the value of your gross estate before you figure how much tax you owe. Each person has one of these estate tax exclusion "coupons."

In the past, the estate tax coupon was "use it or lose it." If people did not take advantage of their coupon when they died, it was gone. So, if a married couple had simple Wills that gave everything to the surviving spouse, as most Wills do, there's no estate tax when the first spouse died because of the unlimited marital deduction. But they wasted the first spouse's "coupon." So when the second spouse died, he or she only had one coupon left. The couple did not avoid any estate taxes. They just *deferred* them until the second spouse died. The government is very patient and is happy to wait a while for a larger tax bite.

The key to basic estate tax planning for a married couple is to use both spouses' coupons. In the past, this was difficult to do with a Will, but easy to do with a Trust. You can structure a Trust so that on the death of the first spouse you take full advantage of that spouse's coupon. Split the Trust into two shares for the surviving spouse on the first death: one share uses the deceased spouse's coupon and the other share uses the marital deduction for everything over the coupon amount. You escape all estate tax on the first death. When the surviving spouse dies, he or she still has a full coupon left, and all of the assets sheltered by the deceased spouse's coupon still won't be subject to estate tax.

However, under current law the estate tax coupon is "portable" between spouses. It's no longer necessary to

create two separate Trust shares or even to use a Trust at all in order to take advantage of both spouse's coupons. Portability allows the surviving spouse to use whatever portion of the coupon the deceased spouse failed to use. So, the unused coupon can pass to the surviving spouse. In order to transfer the deceased spouse's coupon to the surviving spouse, the deceased spouse's Personal Representative must file a federal estate tax return, even if you are under the 11 million coupon amount.

While portability makes planning for federal estate taxes easier in some cases, it doesn't mean that tax planning is unnecessary now. First, a Trust that shelters assets using the deceased spouse's coupon can have many non-tax benefits, such as creditor protection and remarriage protection. Second, not only will those assets not be subject to tax in the surviving spouse's estate, but also any appreciation on those assets will not be subject to tax. If you rely solely on portability, you will not receive this important benefit. Also, you may lose all or a portion of your deceased spouse's coupon if you remarry.

Finally, portability is a relatively new feature of the law. It's great as long as Congress doesn't change the law again. As the past few years demonstrated, that is not something on which you can always rely. What one administration does, the next can easily undo.

If you're going to owe estate taxes, you need to plan ahead. The bill is due within nine months after your date of death. You can get extensions on filing the estate tax return, but penalties and interest start running on the amount you owe beginning at the nine-month point. If you don't have enough assets you can quickly convert to cash, you might want to consider some life insurance to cover the estate tax bill. Otherwise, your estate may be holding a fire sale when you die to generate the cash to pay the estate tax.

Tax planning shouldn't be the central focus of your estate plan, but you can't ignore it, either. Tax issues can be major roadblocks in large estates. Remember, though, you should always plan your personal goals first and then, with the help of qualified estate planning professionals, mold the best tax-saving strategies around them. Good tax planning in your estate plan will help control the overall costs your family will incur.

The Key to a Successful Estate Plan

Most people, including professional advisors, are so focused on the *documents* that they ignore the most important part of estate planning – asset titling. If you recall from our previous discussion, asset titling is the second stage of every estate plan.

Asset titling just means the way you have your name on your assets. The "title" to an asset is the instrument that constitutes legal ownership of the asset. Asset titling, therefore, is the "legal link" between an asset and the person who owns it. It's a critical legal issue because there are picky laws that control what specific wording means on your asset titles.

This applies to every asset you own, not just real estate. If it's something you can own, the *way* in which you own it is a vital issue if you want your estate plan to work correctly.

The common notion that "possession is nine-tenths of the law" is useless in estate planning. Asset titling is 100% of the law when it comes to how your estate plan works. It's way too complicated to explain the legal effect of every asset titling option in this booklet. But let's look at a few simple examples of asset titling mistakes that everyone can easily understand.

We already illustrated how people sometimes inadvertently disinherit some of their kids by improperly using "Probate shortcuts." That happens far more often than you'd imagine.

Suppose you create a Trust with distributions to your children staggered over various ages because they're minors or not yet financially responsible. However, you take the simple way out and leave your kids as the Beneficiaries on your life insurance and retirement plan, instead of naming the Trust. When you die, your kids get a big chunk of cash outright from your life insurance and retirement plan because they are the named Beneficiaries. Because the Trust never received or controlled those assets, the staggered distributions in your Trust are useless.

Or imagine that you create a Trust because you want to avoid Probate and minimize estate taxes. But you leave all of your assets jointly with rights of survivorship with your spouse because you think that asset titling is too hard and is probably just a bunch of legal bologna anyway. You die and everything goes directly to your spouse without Probate, but you *wasted* your estate tax "coupons." Your spouse dies a short time later, and everything has to go *through Probate* to get into your Trust. And your spouse only has one "coupon" left to offset estate taxes. Your Trust didn't accomplish either of your main goals, simply because you didn't title your assets correctly.

Here's the simple, universal truth in estate planning. If you don't title your assets to coordinate with your plan, your plan won't work, no matter what type of plan you have. The success of every estate plan always boils down to how you title your assets. No estate planning document alone controls how things work. They only work if you title the assets correctly to work through the document.

Think of your estate plan as a car. You buy a new car that's the exact make and model you want, and you carefully include every accessory to make it perfect for you. There's just one thing missing – the fuel. Your assets are the fuel for your estate plan. The way in which you title your assets determines whether your fuel gets in the tank or spills all over the ground. You've got to get every

The Road Less Traveled

Sometimes basic estate tax planning isn't enough. If you're fortunate enough to have a net worth bigger than your estate tax "coupon," your Beneficiaries will lose a huge chunk of it to the government before they get anything. If you have a large estate, you need to consider a slightly different path with more advanced tax planning, if minimizing taxes is one of your goals.

We don't intend for this to cover a lot of intricate tax planning, so we'll just skim the surface. You just need to be aware that there are advanced tax planning strategies to help you reduce or eliminate your tax burdens.

Most advanced gift and estate tax planning involves "Irrevocable Trusts" – a Trust that you can't change. There are lots of different types and they don't all do the same thing. In most (but not all) cases, you are the Grantor, but you are not a Trustee or a Beneficiary of the Trust.

The common purpose of most Irrevocable Trusts is to move things out of your estate to reduce the value of your assets that will be subject to estate tax when you die. Since you no longer own it, you no longer owe tax on it. You move things by making gifts to the Irrevocable Trust in a way that qualifies for the annual or lifetime gift tax exclusions.

One example is an Irrevocable Life Insurance Trust. You gift money to the Trust year after year. The Trustee uses the cash to buy a big life insurance policy on your life, which is payable to the Trust. When you die, the Trust receives the policy proceeds free of estate tax because you didn't own it. The Trustee can now use the cash in the Trust to replace what the Beneficiaries lose from the estate taxes on your other assets, or to provide your estate with liquidity to pay taxes on time.

You can also use business entities for advanced tax planning. Limited partnerships and limited liability companies provide ways to "squeeze" the value of business, real estate and investment assets into a smaller ball so they aren't worth as much for gift and estate tax purposes. You can also gift or sell the interests to special Irrevocable Trusts for even further tax benefits.

There's also a lot you can do with Irrevocable Trusts and charitable planning. Many of these options even have some great income tax benefits.

Advanced tax planning can get complicated. It's worthwhile, though, considering that there is a lot of money at risk. The neat thing is you can often mix and match several advanced planning strategies to supercharge the planning. Tax benefits and asset protection from creditors often go hand-in-hand, making advanced planning attractive to many people.

In reality, gift and estate taxes are voluntary. You don't *have* to pay them if you plan well. Sometimes it requires a creative combination of gifting, marital deductions, charitable deductions, wise use of "coupons" and other advanced strategies. Those who pay these taxes do so because they didn't plan well or they didn't use the tools available. Either way, it's your choice.

drop of the fuel into your car to make it work. Otherwise it could be an expensive mess!

Most people never give a thought to how they title their assets. It's amazing how something so simple can derail your estate plan if you mess it up. If you want a plan that works, you've got to title your assets correctly, and you need to get good legal advice about how to do it right. Otherwise, your family will never get on the right road.

Your Emergency Kit

Regardless of what route you choose for your estate plan, you need to prepare for unexpected emergencies that could happen while you're alive. There's more to your estate plan than just a Will or a Trust. You need additional legal documents to supplement your plan.

One crucial part of every estate plan is a Durable Power of Attorney. This document appoints someone to handle your financial affairs if you can't do it. "Durable" just means it's effective even if you're mentally incompetent. The main purpose of a Durable Power of Attorney is to avoid a Probate Guardianship if you become incompetent.

A Durable Power of Attorney is essential if you use a Will because your Will only works after you die. The Durable Power of Attorney only works while you are alive. So now you have both bases covered. If you have a Trust, your Trustee will handle all of the assets in your Trust while you are incompetent. You should have a Durable Power of Attorney as a "safety net" in case you forget to title some of your assets into the Trust.

You should also consider having a Health Care Power of Attorney. This document appoints someone to make health care decisions for you if you aren't conscious or competent. A Durable Power of Attorney for financial purposes doesn't work for health care decisions, so you need both. You can even appoint different people to handle your financial and health care issues.

Don't fall for the misconception that your spouse can do this for you automatically. Just because you're married doesn't mean that your spouse has a right to make health care decisions for you. You need to give them specific legal authority over your health care in order for it to work.

A Health Care Power of Attorney isn't just about life and death decisions, either. It gives the person authority to make decisions in non-life threatening situations, too. They can consent to treatments or even access your medical records to get a second opinion. A Health Care Power of Attorney should be part of every estate plan.

A Living Will is also a common supplement to an estate plan. It doesn't involve anyone else. It's just a written instruction from you to your health care provider that you don't want heroic means or life support used to keep you living as a vegetable if you're permanently unconscious and terminally ill. You can also indicate in your Living Will whether you want to be an organ donor.

A Living Will doesn't come into play unless two physicians determine to a reasonable degree of medical certainty that there's no known medical way to keep you alive any longer without life support. If they reach that conclusion, they don't just shove you in a back room and forget about you. They still have to provide "comfort care" to minimize your pain and suffering as much as possible.

It is important to understand the difference between a Living Will and a "do not resuscitate" order ("DNR"). A DNR is not something you usually sign while you're well. You authorize your doctor to sign one *after* they determine that you're permanently unconscious or terminally ill. If the ailment is something you can recover from, you certainly want them to try. The authority to sign a DNR order is in your Health Care Power of Attorney and in your Living Will.

We should also clear up a common misconception about "Medicaid" or nursing home planning for the elderly. Medicaid is a special government benefit program to pay for the care of people who are destitute and have no other means of paying for it. It's a very specialized and complex type of planning that's far beyond the scope of this booklet. What you do need to know, however, is that a Will or a Trust alone isn't going to qualify you for Medicaid or protect your assets from the expense of nursing home care.

It's important to anticipate how you are going to pay for nursing home care if you ever need it. Everyone should investigate the benefits of long-term care insurance as a way to preserve your assets in your later years. If you wait until you're 80, you won't qualify for it. As a general rule, it is wise to consider long-term care insurance when you're in your early or mid 50's so that it's more affordable.

Estate planning is all about expecting the unexpected. Supplemental documents and planning considerations are an important part of every estate plan. They can save your family significant expense and stress. After all, that's the purpose of your estate plan in the first place.

Change of Plans

Things change. That's as certain as death, taxes and road construction every summer. Change is the focus of the third stage of estate planning – keeping it updated regularly. Just as you can't expect your car to run at peak performance without a tune-up, no estate plan will last forever, either.

Three main categories of change can impact your estate plan. It's impossible to predict what changes will happen when. You just need to be on the lookout for these things so you can adjust your plan.

One thing that can alter your estate plan is a change in your financial circumstances. Hopefully, your net worth will grow over time. You may not have tax problems today, but you might later. The type of assets you own may also change, and that can alter how your estate plan works. Remember, asset titling is a constant issue that you need to address.

Another area of change that can affect your estate plan is your family circumstances. If you get divorced or if your spouse dies, you definitely need to revisit your plan. Your Beneficiaries may grow up, get married, have kids of their own or get divorced. Maybe you discover that you just don't care for one of your Beneficiaries as much as you once did. The people you chose to help with your plan, such as your Executor, Guardian for your children, Trustee or Health Care agent, may move away, die or drift apart from you. All of these things are indicators that you may need to tweak your estate plan.

Perhaps the most frequent type of change is in the law, especially taxes. Congress just can't seem to leave well enough alone. Did you know that on average our tax laws change about every ten months? Yet, most people update

their estate plan only about every twenty years! Do you think their plans may be missing something? It's even difficult for attorneys to keep up with all of the legal changes. Your estate plan certainly won't keep up unless you review it frequently.

Your plan needs to be flexible so it can evolve with your circumstances. Don't just sign it and put it on a shelf to collect dust, or chances are good that it won't work when you need it. You need to be proactive and keep it updated to address the changes that occur all around you.

How often should you update your estate plan? Well, obviously if you're aware of legal or personal changes that impact you, review your plan with your attorney right away so you can make adjustments. Otherwise, it's wise to review your estate plan with your attorney at least every few years for a Will, or every two years for a Trust. If you don't need any changes, that's great. At least you'll have peace of mind knowing that it still works the way you want.

> ***The difference between death and taxes is death does not get worse every time Congress meets.***
> ***- Will Rogers***

If possible, work with an attorney who offers a routine estate plan maintenance program. It could be just a periodic review every two or three years for a fixed price and additional charges only if you need changes. Or it could be more inclusive to update you on changes in the law when they occur, assist you with asset titling changes, and update your plan as needed for a fixed annual price. A routine maintenance plan is an excellent way to remind you of the importance of keeping your estate plan current.

Updating your estate plan regularly will assure that you remain on the right road to providing security for your family. It's important to stay on course so you don't leave your family wandering aimlessly in the woods after you're gone.

Caution Ahead

If you think all of this seems pretty easy, you need to be cautious. Every road may have hidden dangers, potholes, roadblocks or detours that can throw you off course. You may be headed off a cliff and not even know it.

If you go skydiving, who are you going to have pack your parachute? Do you want to pack it yourself, or have someone experienced pack it for you? Your estate plan is your family's parachute when you die. They deserve more than just a false sense of security. They deserve to have a plan that experienced professionals created for you.

Your best bet to get a truly effective estate plan is to work with an experienced attorney who focuses on estate planning. Because of the constant changes in the law, there's no substitute for competent, knowledgeable professional legal advice in this area of law. Without significant experience, there's no assurance that the attorney can even properly diagnose your planning issues, let alone solve them.

Just because you own a set of golf clubs doesn't mean you play like Tiger Woods. Likewise, just because someone has a law license doesn't mean they're good at estate planning. The danger with attorneys who dabble in estate planning is that they lack the experience and understanding to recognize what they *don't* know. They often don't know the right questions to ask to be sure that your plan will actually accomplish what you want it to do. You can't expect someone to develop the right solutions if they don't even know how to uncover and properly analyze the problems.

Different attorneys are experts in different areas. You don't want an attorney who specializes in estate planning to represent you in a divorce or personal injury case, because they won't know what they're doing. Similarly, a litigation, divorce or labor attorney is inadequate for your estate planning needs, regardless of how well intentioned they may be. In this day and age, no attorney can be an expert in everything.

There are many exceptional estate planning attorneys, but how do you find them? One way is to get a referral from other professional advisors you use. Another way is to search for an attorney who has earned the Ohio State Bar Association designation as a specialist in estate planning, trust and probate law. At least you know they have proven their expertise in estate planning and they concentrate in that area of law.

Despite the temptation, estate planning is also not something you want to tackle with a do-it-yourself system on the internet or a computer program you buy at the office supply store. The problem with these canned legal documents is that they are *all* boilerplate. They mistakenly

assume that one-size-fits-all – just plug in your name and your problems disappear. There's no professional counseling or advice involved, so you are left hanging to guess what may be best for your particular situation. That's a Band-Aid approach to a serious issue, and there's no way to fix it if the plan fails when you die.

Finally, be sure you understand the difference between financial planning and estate planning. Financial planning involves managing, preserving and growing the value of your estate. Estate planning focuses on the legal structure for protecting your estate from outside forces while you are alive and transferring it effectively when you die. There's some overlap and the differences are sometimes foggy. The important thing to understand is that they are different, but equally important. The best planning occurs when your financial professionals and your estate planning attorney coordinate their efforts and work together for your benefit.

Pay Now or Pay Later

By now, you're probably wondering how much all of this is going to cost. That's a legitimate and important question.

A wealthy man standing behind his two young sons, looking out over the breadth of his domain, said, "Just think boys, someday, if you decide to haggle over my estate, this will all belong to your lawyers."

Before we tackle that issue, let's be honest and lay all the cards on the table. The reason most people avoid estate planning is because they know it's expensive and they'd rather spend their money on something more enjoyable. Nothing worthwhile is free, and estate planning is no different. So it's going to require an investment of your money, your time and your effort, if you want a plan that actually accomplishes your goals and protects your family the way it should.

You've got to understand from the beginning that the answer to the "price" question will vary with the road you choose to follow to reach your particular estate planning goals. Pricing always depends on first defining exactly what you're purchasing. A travel agent can't give you a price for your vacation until you decide where you want to go. A car dealer can't give you an accurate price until he knows what type of car you want and what accessories you want on it.

The initial price for an estate plan is also going to vary from attorney to attorney. They don't all charge the same price, or even determine their price the same way. It's not like a box of cereal that you can get for nearly the exact same price at every store. That's why it's not possible to quote an exact price for every type of estate plan in this booklet. We can, however, suggest how to evaluate whether you're getting a good deal.

First, you need to realize that there is a difference between the "price" of a product or service and its "value." The "price" is the dollar amount that you initially pay. "Value" is what you receive in exchange for what you pay. The more you receive compared to what you spend, the better the value.

Just because you got a cheap price doesn't mean you got good value. If you buy a car because it costs only $5,000, you got a good price, but a poor value if it doesn't have an engine. The same applies to estate planning. A cheap price for the planning doesn't mean you got a good value if the plan doesn't work the way you want.

Value is subjective and is often difficult to measure with professional services. The real value in an estate plan comes from the quality of the counseling and advice you receive in designing a plan that truly accomplishes your objectives. It's not so much the document itself, as it is the counseling that goes into determining what should be in the document, that creates value in an estate plan.

Sadly, people usually perceive "value" solely from the *initial* price of planning. This perception usually results in people opting for the cheapest plan possible, whether it's the best plan for them or not. Real "value," however, is not in the initial price, but in the *results* that your plan achieves. Whoever coined the phrase, "You get what you pay for," must have been settling a messed up estate at the time.

You need to consider not only the initial price, but also what it will cost your family to settle your estate. Your focus, therefore, should be on the *overall* cost, not just the initial price of your plan. Otherwise, you are only looking at a small part of the total picture.

"Overall" costs are the better indicator of value in estate planning. Wills are always cheaper to create, but more expensive to settle because they have to go through Probate. Trusts are always more expensive to design and fund, but usually less expensive in settlement costs and taxes.

Comparison of Costs for a Married Couple With a $650,000 Estate		
	WILL	**TRUST**
Initial Planning Cost	**$1,500.00**	**$3,500.00**
Asset Titling	**$0**	**$350.00**
Settlement Costs		
Attorney Fees	**$28,100.00**	**$7,312.50**
Federal Estate Tax	**$0**	**$0**
Total *Overall* Cost	**$29,600.00**	**$10,812.50**

The accompanying table provides a good example. Which is better, spending $1,500.00 to get a Will plan and paying $29,600.00 in total overall costs, *or* spending $3,500.00 on a Trust plan and paying $10,812.50 in total overall costs? There is a stark contrast between attorney fees for settlement alone: $28,100.00 for a Will plan versus $7,312.50 for a Trust plan in this example. This is a typical comparison for a married couple with a $650,000.00 estate. That's not even a "rich" family by current standards.

In estate planning, the "value" isn't in the initial "price" of particular documents. It's in the *results* those documents will allow your family to achieve in the end, in terms of savings from attorney fees and taxes. That doesn't even count the intangible value of reduced risk and stress on your family if you have an effective plan.

You need to consider the "total costs" when you compare the *initial* price of different estate plans. If you spend less up front, how much more do you have to pay later? If you pay a little more up front, what will you save in the end? Of course, with estate planning you can only partially measure in dollars and cents what you give up or gain in the end. It's tough to put a value on the emotional aspect of what your family will experience.

Rather than fret over the price and never do your estate plan, there's a better approach. First, decide exactly what you want to accomplish with your estate plan. By this we mean a thorough evaluation of your family and financial circumstances and the goals you want to achieve – not just what kind of *document* you think you want. Then get a price for designing that plan and an analysis of what you can expect to save in overall costs. If the value is right for you, do it. If not, you may need to either adjust your goals or shop elsewhere.

You've got a right to know how much your estate plan will cost you to create. More importantly, you need to know how much it will save your family overall. You need to be comfortable with the measurable financial benefit that you can expect your plan to generate compared to what you initially pay for it. The emotional peace of mind you get from knowing you've provided well for your family is priceless.

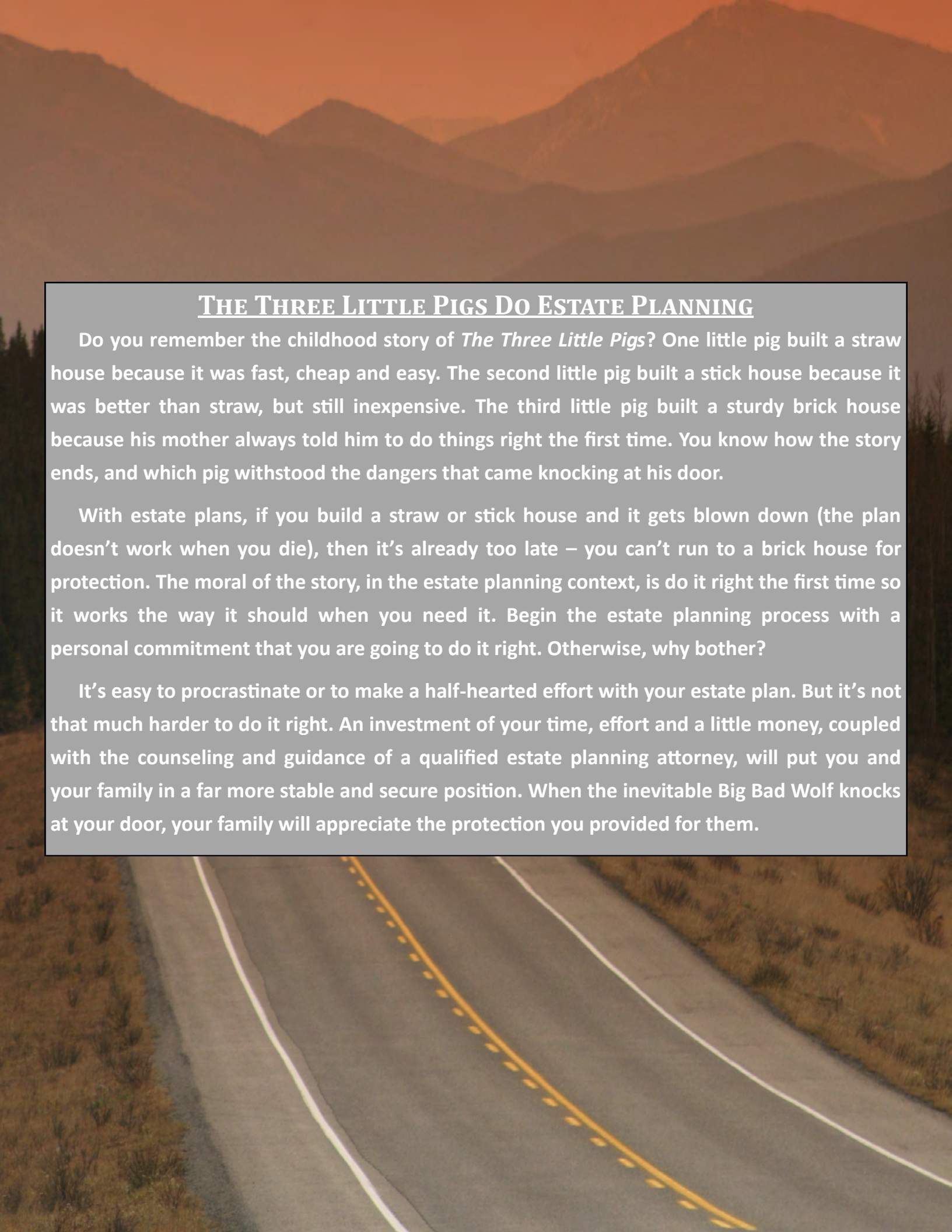
Just Follow the Path

You have a choice. You can do nothing and let your family suffer the consequences. Or, you can take action to control the consequences of your disability or death in a positive way to assure a stable and successful future for your family.

Failing to plan is planning to fail. Poor planning is an invitation to disaster for your family, depleting what you've worked hard to save with unnecessary costs, increased risk and greater stress for everyone. You only get one shot, because when you're gone it's too late. The true test is how well your plan works after you die.

The road to an effective estate plan is right in front of you. The journey requires that you take the first step. That step starts with realizing that you have an opportunity and a responsibility to protect the ones you love. The peace of mind you'll feel by knowing that you're leaving a lasting legacy for them makes the journey well worthwhile.

Please Feel Free To Share This Booklet With Your Family And Your Friends.



The Three Little Pigs Do Estate Planning

Do you remember the childhood story of *The Three Little Pigs*? One little pig built a straw house because it was fast, cheap and easy. The second little pig built a stick house because it was better than straw, but still inexpensive. The third little pig built a sturdy brick house because his mother always told him to do things right the first time. You know how the story ends, and which pig withstood the dangers that came knocking at his door.

With estate plans, if you build a straw or stick house and it gets blown down (the plan doesn't work when you die), then it's already too late – you can't run to a brick house for protection. The moral of the story, in the estate planning context, is do it right the first time so it works the way it should when you need it. Begin the estate planning process with a personal commitment that you are going to do it right. Otherwise, why bother?

It's easy to procrastinate or to make a half-hearted effort with your estate plan. But it's not that much harder to do it right. An investment of your time, effort and a little money, coupled with the counseling and guidance of a qualified estate planning attorney, will put you and your family in a far more stable and secure position. When the inevitable Big Bad Wolf knocks at your door, your family will appreciate the protection you provided for them.

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