

Estate Planning & Retirement

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As people approach retirement, they rightfully spend a lot of time thinking about whether their retirement portfolio will enable them to live the lifestyle they desire during their retirement years. But one area many retirees neglect is their overall estate plan. The older we get, the closer we are to reaching one of life's unfortunate guarantees-death. Without an estate plan your assets may not be transferred to the people you want to inherit your estate.

So as you approach retirement age, or if you are in retirement, it is important to review your estate plan. The following are the most important items to consider:

-Make Sure you Have a Will or Trust –Beginning in 2013 the estate tax exemption has been permanently set at \$5.25 Million per person (indexed for inflation). That means the overwhelming majority of people will never be subject to estate tax. Nonetheless it is extremely important that everyone have some sort of “estate plan.” More than 50% of people in the U.S. don't even have the most basic estate planning tool-a will. If you die without a will your assets may not be distributed to the beneficiaries you want or in the manner that you want. Assets that are owned by you jointly with rights of survivorship and those assets that have a named beneficiary (such as IRA accounts, life insurance, etc) are distributed to the named beneficiary or joint owner provided they survive you. All of your other assets will be distributed in accordance with the terms of your will. If you do not have a will at the time of your death these other assets will be distributed pursuant to the Michigan intestate succession statute. The statutory provisions are mandatory.

If you currently have a will or trust, now would be a good time to review it to make sure the terms are consistent with your wishes. You should pay particular attention to who will receive your assets following your death and the timing of the distribution. Ask yourself the obvious questions: "Are the named beneficiaries the individuals you want to inherit your estate? Are there additional beneficiaries you want to name?"

It is also important also to review who is named as the personal representative (executor) of the estate. Is this person still alive? Who is the designated successor?

If you have property that has personal meaning (such as jewelry, heirlooms, etc.) you should be very specific how these assets will be distributed at your death. Even families that seem perfect on the surface can and do challenge the distribution of certain assets. A properly drafted estate plan will increase the likelihood that there will not be any legal challenges to your estate.

For many people a properly drafted will is sufficient; however there is one major drawback with a will - probate. Assets that are distributed to beneficiaries pursuant to a will are subject to probate. Probate is a court proceeding which means the process is public and generally requires hiring an attorney to represent the estate. Since probate is a court proceeding there are various court rules and procedures

to follow which can lead to significant delays (and additional costs) before assets are distributed to the beneficiaries.

A revocable living trust is used to avoid probate. A trust is nothing more than a legal arrangement to own your assets. You retain complete control of your assets as the trustee of the trust. Following your death the individual(s) you select will succeed you as trustee and will be responsible for administering the trust for the benefit of the beneficiaries you select. You can determine when and how assets are distributed.

Just as it is important to review your will it is as important to review your trust to determine if there any needed changes, such as any new beneficiaries. You may wish to provide an accelerated time schedule for distribution of your assets or stretch out the distributions over a longer period. If there are financial issues with one of the beneficiaries a trust revision may be needed.

It is crucial to review the identity of the successor trustee to determine if the individuals selected remain appropriate as your trustee. In many cases the individuals named to succeed you have already died or are not able to handle the administrative duties of the trust.

A trust can be used to protect a beneficiary who is a spendthrift or has creditor problems or a grandchild who needs money to go to college, but you don't want them to receive a large inheritance because they may spend the money on something other than college tuition.

A trust is also vital if you have an adult child who is disabled and needs funds to care for them for the remainder of their life. In some cases, people even establish a trust to ensure their favorite pet is cared for when the owner dies.

If you have already established a trust in your estate plan, but plan to move to another state during your retirement, it would also be advisable to have an attorney in that state review it to make sure there are not any specific state or local laws that may impact your trust.

-Review and Update Beneficiaries - While some assets with a beneficiary designation, such as IRAs, 401(k)s or life insurance policies, are not subject to probate as long as the beneficiary is alive at the time of death, it is still important to review your beneficiary designations to ensure they are up-to-date with your wishes.

You also need to consider whether any of your beneficiaries have special issues that warrant consideration, such as leaving your assets to a grandchild who may be too young to manage a large amount of money, or leaving it to someone who has credit issues, and therefore the money may end up in the hands of a creditor.

-Gifting—In general gifts are subject to a gift tax however gifts of \$14,000 can be made each year without any gift tax consequences. If you are married, gifts can be doubled even if the cash or gift property is actually given to the donee by only one spouse. For a gift to qualify for this annual exclusion, the gift must be for the immediate use of the donee and can't be postponed into the future. A contribution to a qualified 529 tuition plan is considered a gift of a present interest even though this

could be considered as something that the recipient would use in the future. In addition a one-time gift of \$70,000 can be made to a 529 plan (technically this is considered using 5 years of gifts at one time).

Gifts in excess of the annual gift tax exclusion require a filing of a gift tax return and will reduce the amount that you can leave to your heirs without an estate tax. Gifts in excess of the annual exclusion reduce your estate exemption on a dollar for dollar basis.

There is no limit on the amount of donees that receive an annual gift. A grandparent for example with 6 grandchildren could make without incurring any gift tax consequences, a gift of \$84,000 (6 x \$14,000). The gifts can be made to anyone and not just relatives.

-Review/Update your Powers of Attorney, HIPPA Form- Durable powers of attorney are more important as you age because there is a chance you will need to spend time in a hospital or nursing home during retirement. By updating your powers of attorney, you ensure that if you are unable to participate in your medical treatment decisions, the declaration in your durable power of attorney will stand as an expression of your wishes and directions. These decisions can include treatment or procedures that can postpone death or prolong an irreversible coma. You can also be certain that someone will be able to make important financial decisions for you if needed, or even to do something as simple as paying your bills if you aren't available to do so because of a medical condition or other situation.

Powers of attorney also become more important for many people during retirement because they often travel more frequently or live part-time in another state. With your declaration through your power of attorney, your wishes regarding your medical care will be granted no matter where you are.

In addition, you should make sure you have a HIPPA Release and Authorization form updated to officially designate someone to have access to your medical records and information in the event they need to have this information to make any medical decisions for you if you are unable to do so. This form works in conjunction with your Medical Durable Power of Attorney.

As you can see, there are a lot of issues to consider in your estate planning when you are in retirement. While most of us prefer not to think about dying, those in retirement really shouldn't procrastinate when it comes to the need to develop or update their estate plan. By doing so, you will have peace of mind knowing that your assets will be distributed to your heirs per your wishes.

As a result of the increased estate tax exemption most people will not be subject the estate tax at the time of their death. Even though most people will not be subject to estate tax lifetime gifts, a simple and easy way to reduce your estate's tax burden is to gift a portion of your assets.