

Why Are You Waiting to Do Your Estate Plan?

By: Randall A. Denha, Esq. ***

You've worked hard to build your assets—your investments, home, personal property—and to provide a level of financial security for your loved ones. Doesn't it make sense to work just as hard to protect them in the event something should happen to you?

That's the primary goal of estate planning—to protect, preserve and manage your estate if you die or become disabled. Some people may see no need for estate planning until they reach a certain age, or they might believe that it's only for the wealthy. But in truth, it's wise for everyone to begin the estate planning process as early as possible. All too often many clients become worried that if they prepare their estate plan, something will happen to them. This superstition causes them to do nothing and the family is the one that bears the brunt of that failure to act.

Why is estate planning so important? Because it allows you to accomplish a number of crucial objectives:

- Help ensure that your money and other assets go to the people you choose. Without a plan, state laws will determine your beneficiaries.
- Specify who will care for your minor children if you become unable to.
- Defuse potential conflicts over the distribution of your assets.
- Minimize estate taxes and other transfer taxes.
- Avoid the costs, publicity and delays of probate, the legal process used to value your estate, settle any debts, pay taxes and transfer assets to your heirs.
- Help ensure that you and your affairs are taken care of in the manner you wish if you should become incapacitated.

Without an estate plan, the fates of your assets and your loved ones may be decided by attorneys, government bureaucrats and tax agencies. Taxes and attorney's fees can eat away at your estate, and distribution of your assets could be delayed at a time when your heirs need them most.

So why doesn't everyone have an estate plan? Aside from a natural reluctance to face our own mortality, some people are put off by the belief that estate planning will be complicated, time consuming and costly. In fact, setting up an estate plan doesn't have to be a complex process.

Estate planning can begin with something as simple as reviewing the beneficiaries of your insurance policies and retirement accounts and updating them as appropriate. It may involve adding one or more heirs as co-owners of your home, bank and brokerage accounts or other assets. To make sure all your wishes are carried out, you'll need to draft a will and perhaps establish one or more trusts, but even these activities can be handled in a few brief meetings with an estate attorney.

Even those with modest estates should consider taking care of the basics:

- Make sure loved ones know where to find important documents and include an inventory list of accounts, assets and insurance policies, etc.
- Draft a will and final letter of instructions. Those with a **revocable living trust** should consider a “pour-over” will (see below).
- Establish durable powers of attorney and health care, appointing someone you trust to handle your affairs in case you become incapacitated.
- Review the titling and beneficiary designations on all your accounts and properties. Spouses should consider a number of different trusts such as a credit shelter bypass trust to preserve the lifetime credit of the first-to-die, a joint trust or a disclaimer trust. The right trust will be suggested to you by an experienced estate planning attorney.
- Make certain funding a **revocable living trust** with your titled assets along with a “pour-over” will to ensure other assets are included in the event of death.

How to get started

Most people can address their estate planning goals with the simple, four-step process outlined below.

1. **Take inventory of your assets and liabilities.** List the value of your home and other real estate, cars, jewelry, artwork and other physical assets. Gather recent statements from each of your bank, investment and brokerage accounts. Make a list of all insurance policies, their cash value and death benefit. Finally, list all liabilities, including mortgages, lines of credit and other debt.
2. **Define your estate planning objectives.** To whom do you want your assets distributed, and in what proportions? If these heirs aren’t living at the time of your death, whom do you wish to name as successor beneficiaries? If you have minor children, whom do you want to care for them? What assets do you want to put aside to provide for your children’s ongoing care and education? Whom do you wish to manage your affairs if you become disabled and distribute your assets upon your death? Who will make health care decisions on your behalf if you become incapacitated? Answering these questions before you meet with an estate planner can save you both time and money.
3. **Meet with an estate-planning attorney.** A qualified attorney will review your objectives, explain the tools—wills, trusts, powers of attorney, etc.—you can use to help you accomplish them and help you think through matters you may not have addressed.
4. **Have your attorney draft the necessary documents.** Based on your objectives, the attorney will draw up the appropriate documents for your signature. In most cases, these documents are fairly standard in format, which can substantially reduce the cost of developing your plan. If you set up a trust, you’ll want to fund it promptly. If you fail to do so, the agreement won’t take effect, and your assets may not pass to your beneficiaries as you’d intended.

Those with closely held family businesses and/or larger estates should consult both their attorneys and their CPAs to explore the potential benefits of systematic lifetime gifting, business succession planning and more sophisticated estate strategies, including but not limited to the use of a **grantor retained annuity trust, irrevocable life insurance trust, children's trusts, family limited partnership or charitable remainder or lead trust.**

Though planning for one's own demise may feel morbid, you don't want to procrastinate. Remember, if you don't put your own estate plan into action, the government will do it for you. Do your loved ones a favor and get started now!

******RANDALL A. DENHA, J.D., LL.M., attended Wayne State University and graduated with a degree in Corporate Finance. After college, Mr. Denha then went to University of Detroit School of Law where he obtained his law degree. He then attended the University of Miami School of Law and completed a masters in law (LL.M.) in estate planning. The University of Miami is regarded as the premier school in the country for its program in estate planning. Randy is frequently called upon by both local and state publications to render an opinion or provide insight into planning techniques. Randy has hosted a radio program and has authored many articles in the estate planning arena on the importance of planning. Additionally, he is a former adjunct Professor at Oakland University's Personal Financial Planning Program where he taught estate planning for those wishing to obtain a Certified Financial Planning (CFP) degree. Mr. Denha also serves as General Counsel for both local and national organizations. Mr. Denha is also a member of the Bank of Michigan's Board of Directors, a member of the Board of Directors of Invescor, Ltd. (a national life settlement insurance provider) and volunteers his time to several community organizations.***