



The Cornerstones of Estate Planning: **An Essential Overview**

An estate plan is not just about how your wishes will be carried out; it's a crucial component of a comprehensive financial plan, ensuring that your wealth is managed and transferred in alignment with your vision and values.

Dive into this comprehensive guide, created by the experienced team at Hargrove Firm, to demystify the complexities of estate planning and equip you with knowledge about how to protect your legacy.

KEY COMPONENTS OF A COMPREHENSIVE PLAN

LAST WILL & TESTAMENT

Most people have heard of a will, and it can serve as one of the most critical components of your estate plan. A Last Will & Testament is a legal document that outlines your final wishes and instructions for the distribution of your probate assets after you pass away. It allows you to designate beneficiaries, such as family members or charitable organizations, and name an executor to carry out your wishes. Without a will, the state will decide how your assets are distributed, which may not align with your intentions. Having a will helps to ensure that your assets are distributed according to your wishes.

LIVING TRUST

A Living Trust is a flexible legal arrangement that allows you to transfer your assets into a trust during your lifetime. This legal documentation helps your estate to avoid probate, which can be time-consuming and costly.

FAMILY PROTECTION SUBTRUST

A Family Protection Subtrust is a feature of a Living Trust that provides asset protection for your family after your death. It allows you to control how and when your assets are distributed to your beneficiaries, protecting them from creditors and potential legal challenges. A Living Trust with Family Protection Subtrust is an excellent way to maintain privacy, avoid probate, and ensure that your assets are managed and protected for the benefit of your loved ones.

GENERAL DURABLE POWER OF ATTORNEY

Who will attend to your affairs if you are incapacitated? A General Durable Power of Attorney grants someone you trust (your agent or attorney-in-fact) the legal authority to manage financial matters and make decisions on your behalf if you become debilitated. This document is crucial for ensuring that someone you choose is empowered to handle important financial matters, such as paying bills, managing investments, and handling real estate transactions, in the event you are unable to do so yourself.

ADVANCE CARE DIRECTIVE (LIVING WILL)

An Advance Care Directive, also known as a Living Will, allows you to express your wishes regarding medical treatment and end-of-life care if you are unable to communicate your decisions. It outlines your preferences for life-sustaining treatments, pain management, and other medical interventions. Having a Living Will ensures that your healthcare providers and loved ones understand your desires and can make medical decisions on your behalf in alignment with your values.

HEALTHCARE SURROGATE DESIGNATION

A Healthcare Surrogate Designation, also known as a Healthcare Power of Attorney, allows you to appoint someone you trust as your surrogate or proxy when it comes to medical care. This person will have the legal authority to make medical decisions on your behalf if you are unable to do so yourself. Your healthcare surrogate is able to work with medical professionals to ensure that your medical treatment is carried out according to your wishes.

HIPAA AUTHORIZATION

A HIPAA Authorization is a legal document that allows designated individuals to access your protected health information. Without this authorization, medical professionals are prohibited from sharing your health information with anyone other than you. By having a HIPAA Authorization in place, you ensure that your healthcare surrogate and other trusted individuals can access important medical information when needed.

TAX PLANNING CONSIDERATIONS

A/B PLANNING FOR LIVING TRUST

A/B Planning, also known as Credit Shelter Trust or Bypass Trust planning, is sometimes used in conjunction with a Living Trust for married couples, especially those with a high net worth. It allows each spouse to maximize their individual estate tax exemption, reducing the tax burden on their combined assets. By creating separate trusts for each spouse, A/B Planning ensures that both spouses can take advantage of their estate tax exemption and pass on more of their wealth to their beneficiaries tax-efficiently.

IRREVOCABLE TRUST WITH LIFETIME PROTECTION SUBTRUST

For high-net-worth clients who may be concerned about federal and state estate taxes, an Irrevocable Trust with a Lifetime Protection Subtrust can offer significant tax benefits and asset protection. The benefits of an irrevocable trust can include the following:

- ✔ Estate tax reduction
- ✔ Lifetime gifting options
- ✔ Protection from creditors
- ✔ Protection from divorce
- ✔ Control and flexibility

By consulting with an estate planning attorney, clients can customize their Irrevocable Trust to align with specific needs and financial objectives, optimizing all available tax benefits. However, due to the long-term implications of such a trust, it's crucial to seek professional guidance and careful planning to ensure your plan meets overall estate planning goals.

COMMON QUESTIONS

WHAT IS PROBATE AND WHY IS IT SOMETHING TO AVOID?

Probate is the legal process through which a court oversees the distribution of a deceased person's assets to their beneficiaries and settles their debts. During probate, the court validates the deceased person's will, appoints an executor to manage the estate, identifies and values assets, pays off debts and taxes, and ultimately distributes the remaining assets to the heirs.

Probate is something to avoid for several reasons:

Time-Consuming

Probate can be a lengthy process, often taking several months or even years to complete. During this time, beneficiaries may face delays in receiving their inheritances, potentially causing financial strain and frustration.

Costly

Probate can be expensive, with court fees, attorney fees, and other administrative costs eating into the estate's assets and reducing the amount available for beneficiaries.

Lack of Privacy

Probate is a public process, and all documents and proceedings become part of the public record. This lack of privacy can lead to unwanted scrutiny and potential disputes among family members.

No Control over the Outcome

During probate, the court has significant control over the estate's administration, which may not align with the deceased person's specific wishes or the best interests of the beneficiaries.

To avoid probate and the associated challenges, many people opt for estate planning strategies such as revocable living trusts, which allow assets to be transferred to beneficiaries without going through the probate process. Proper estate planning ensures that your assets are distributed efficiently, your privacy is preserved, and your loved ones are protected from unnecessary stress and delays during an already difficult time. Consulting with an experienced estate planning attorney can help you create a comprehensive plan to avoid probate and achieve your estate planning goals.

WHY DO I NEED A TRUST IF I HAVE A WILL?

A will is simply a document that provides details to the probate court on how you wish your assets to be distributed. It is a common misconception that having a will allows your estate to avoid probate. With a will, your loved ones will still incur the expense and have to undergo the process of probate administration. A revocable trust allows you to maintain full control over your assets during your lifetime, while achieving probate avoidance upon your passing. Hargrove Firm generally recommends the use of a trust with a pour-over will, ensuring that any remaining assets automatically transfer to the established trust upon death.

HOW OFTEN SHOULD I UPDATE MY ESTATE PLAN?

It's essential to regularly review and update your estate plan to reflect life changes, such as marriage, birth of children, or changes in financial circumstances. We at Hargrove Firm recommend that you confirm that the details of your plan match your desires at least annually.

WHOSE GUIDANCE SHOULD I SEEK WHEN COMPLETING MY ESTATE PLAN?

Estate planning is the ultimate financial planning exercise, which is why it's so critical that families work alongside an experienced team when contemplating and documenting key decisions. At minimum, that team should include at least one experienced attorney. If a family works with a financial advisor, it is advisable to include that professional in estate planning conversations to aid in strategizing to develop a comprehensive strategy to meet a family's goals.

READY
TO GET
STARTED?

Speak with your financial advisor about working with Hargrove Firm through NetLaw.

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