Important Steps in Preserving Your Estate

If you are like most people, wills, trusts, life and disability income insurance, and advance directives are topics you would just as soon avoid. Yet, timely planning is necessary to preserve the assets you have worked so hard to build and to protect those you love. Here are some important steps you can take now to ease your family's emotional and financial burden in the event of your death:

1) Prepare a will. This document specifies how you want your assets to be distributed after your death. If you die without a will (intestate), your estate will be distributed through the probate court according to the intestacy laws of your state. Intestacy laws essentially function as a "one-size-fits-all" will. Without a will, your assets may or may not be transferred to those you would have chosen. In some cases, you must have a will, such as if you wish to designate an executor for your estate, name guardians for minor children, or appoint other fiduciaries.

2) Consider a living trust. Also called an inter vivos trust, a living trust is established and in effect during your lifetime. It provides a mechanism to safekeep, manage, and distribute your assets. These trusts are revocable in the sense that you retain complete control of your assets and may alter the trust at any time. Most people establish living trusts to avoid probate. Avoiding probate may make sense for those who are concerned about privacy, since probated assets are a matter of public record. It may also benefit those who own property outside their state of domicile, since their estates might otherwise be subject to multiple probate proceedings. Once a trust is established, assets must be transferred into it or they may be subject to probate.
Keep in mind that a trust's usefulness depends on the type of property involved (e.g., real estate, life insurance, bank accounts, investments, business interests, and personal property), where it is located, and how it is currently titled. In addition, a living trust generally does not eliminate the need for a will.

3) Title property for ease of transfer. A simple and inexpensive estate planning technique is to own property as joint tenants. Many couples do this, for instance, with their personal residence. With jointly-owned property, when one partner dies, the property automatically passes to the surviving partner without going through probate. However, it is important to note that community property states have their own laws governing the disposition of assets.

4) Purchase life and disability income insurance. For a relatively low cost, life insurance can help provide a source of replacement income for your family. The death benefit may also be used to help pay estate taxes or other immediate financial obligations. According to the Insurance Information Institute (III, 2007), a working American, at the age of 40, has a 21% chance of becoming disabled for 90 days or more. Disability income insurance can help protect the integrity of your family's finances.

5) Establish advance directives. It is essential to have a living will, durable power of attorney, and health care proxy in place in case of a physical or mental incapacity. A living will allows you to express your preferences regarding the giving or withholding of life-sustaining medical treatment. A durable power of attorney and health care proxy allow you to designate someone to handle your legal and financial affairs and make your medical decisions if you are unable to do so. It is also important to inform those closest to you of your arrangements and the whereabouts of the related documents.

Consider taking these initiatives now, while they are fresh on your mind. The key to successful estate preservation is planning!

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