

THE FIVE OBJECTIVES OF PROPER ESTATE PLANNING

INTRODUCTION

Is your estate plan taking full advantage of all of the opportunities available to you? Once we understand what it is we are trying to achieve, we can rest assured that we are taking full advantage of all the opportunities available. Planning within the context of clearly defined objectives is essential. Below are five objectives I feel everyone should be looking to accomplish when putting together their living trust-based estate plan.

1. A proper estate plan should blend into the background of your current life.
2. A proper estate plan should keep your affairs out of court (and avoid probate).
3. A proper estate plan should provide for the structured distribution of assets.
4. A proper estate plan should avail itself of all tax opportunities available.
5. A proper estate plan should maintain a reasonable measure of privacy.

BLEND INTO THE BACKGROUND OF YOUR CURRENT LIFE

First and foremost an estate plan needs to be practical and non-invasive. The overarching objective of proper planning is to provide peace of mind and ultimately increase the quality of you and your family's lives. It would serve little utility if in so doing you were required to take upon themselves a host of additional responsibilities and inconveniences.

KEEP ONE'S AFFAIRS OUT OF COURT (AND AVOID PROBATE)

Without proper planning, your affairs would almost always subject to court involvement should you become incapacitated or deceased. This court involvement is encompassed by the term "probate." Probate is not an intended punishment for poor planning but rather an extremely inefficient and expensive process to administer your affairs or estate. A detailed discussion of Probate is beyond the scope of this paper, but it should be known that the process involves a judge overseeing every little asset, individual, and action. Consequently, probate can last years and drain 5% or more of the estate in fees and costs.

PROVIDE FOR THE STRUCTURED DISTRIBUTION OF ASSETS

One of the greatest advantages of a Living Trust-Based Estate Plan is not only the ability to name your beneficiaries, but also dictate how they receive their inheritances. You are free to structure distribution any way you wish. You will likely want to delay distribution to a young child until they get older; and perhaps also protect your beneficiaries from external threats such as an unforeseeable bankruptcy, lawsuit, or divorce. The ultimate distribution of your estate is entirely a personal decision, and with a near-infinite number of possibilities, you can structure your plan in any manner which is best for you and your family.

TAKE ADVANTAGE OF ANY AVAILABLE TAX OPPORTUNITIES

My father would encourage me when I was younger to always look out for myself as if no one else was doing so for me. Years after I began my career, I came to learn that this advice is most relevant in the world of taxes. No matter where we are or what we do, the danger of tax liability is ever-present. Supreme Court Justice, Learned Hand once said. "Anyone may arrange his affairs so that his taxes shall be as low as possible; he is not bound to choose that pattern which best pays the treasury. There is not even a patriotic duty to increase one's taxes or public duty to pay more than the law demands." According to Justice Hand, we should all be in a perpetual state of seeking and taking advantage of tax reduction strategies. It is beyond the scope of this section to go into what those opportunities are, but you should note that every Living Trust-Based Estate Plan should minimize tax liability. And if we reflect on my father's wise advice, we will realize that if we do not plan and seek to reduce taxes ourselves, no one else will.

MAINTAIN REASONABLE PRIVACY

This last objective piggybacks on the pains of probate and court involvement as described above. Notice to all interested parties (and the opportunity for those parties to be heard) is integral to the U.S. Court system. This publicity results in open and unrestricted access to personal information such as a list of assets, debt, and other private family matters. A living trust-based estate plan will seek to keep one's affairs and family out of the public eye.

CONCLUDING THOUGHT

Although creating *any* estate plan is better than having no estate plan, keeping in mind these five primary objectives when creating your plan or reviewing it with an attorney will ensure that you are taking full advantage of all the opportunities available to you.

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