

The Basics of Estate Planning

With the many changes in the estate tax in recent years, you could be confused about the need for estate planning. But estate planning was never just about reducing estate taxes. It is also about ensuring that your estate is distributed according to your wishes and that your heirs are properly provided for. At a minimum, you probably need to take care of the following:

Select a guardian for your minor children. This is probably the most important reason for parents with minor children to plan their estate. You need to select an individual who has a genuine concern for your children's welfare, as well as a parental style and moral beliefs that you are comfortable with.

The guardian should have the health and stamina to raise your children, which means siblings could be better choices than parents. Consider whether you want a guardian who lives close to you, since you may not want your children's lives disrupted by moving to a different area. As part of this decision process, you should ensure that you leave behind sufficient resources to raise your children, not only enough for living expenses, but also for hobbies, medical expenses, and college.

Also consider whether the person who will raise your child should also handle their finances. You may want to select another individual to handle that role. Once you make your selection, you need to discuss your decision with that individual to make sure he/she is willing to take on this responsibility. Don't forget to name a contingent guardian in case your first preference is unable to act as guardian. And remember, this is not a decision that is set in stone. Review your guardian choice every year to determine whether that person is still the best choice.

Write a will. A will serves several basic purposes:

- **It provides for the distribution of your assets.** Without a will or other estate planning documents, your assets will be distributed in accordance with state law, which may not coincide with your preferences. If you have trusts that cover all of your assets, you may not need a will for this purpose. But even individuals with trusts often own assets that are not part of the trust. Thus, a provision may be needed in the will placing those assets in the trust after your death.
- **It names the guardian for your minor children.** A will is the formal document naming your chosen guardians for your minor children. Without a will, the courts will decide who will raise your children.
- **It selects the executor for your estate.** The executor assembles and values your assets; files income, estate, and inheritance tax returns; distributes assets; and accounts for all transactions. This role can be very simple or very complex, depending on how complex your financial situation is and which assets go through the probate process. If you don't name an executor, the court will.

Prepare a durable power of attorney. A durable power of attorney gives an individual you select the power to take over your finances if you become incapacitated. That individual will then be able to access your accounts and sign checks for you. If you become incapacitated without a durable power of attorney, someone will need to go to court and ask to be named your guardian. That individual will then have to let the court know how money has been spent.

Sign a health care proxy. This document can be called a health care proxy, a durable power of attorney for health care, or a medical directive. Its purpose is to delegate health care decisions to a third person when you are unable to make those decisions yourself. Typically, this document will also outline which procedures should be used to prolong your life, including whether you want to be placed on life support.

Consider whether you need to go beyond the basics. There are many situations where you may find that you need a trust to carry out your wishes. Perhaps your estate is so large that you need trusts to help minimize estate taxes. Or, you may have a minor child with special needs or want to control when your children receive their inheritance. You may be in a second marriage and want to ensure that provisions are made for children from a prior marriage.

Review your estate plan regularly. Not only will your personal situation change over time, but the tax law may create a changing tax situation. A regular review gives you an opportunity to decide whether your decisions are still appropriate and to make any necessary revisions.

The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com