

The Right Estate Plan

By Paula F. Montoya, Attorney



There are many factors to consider when preparing your estate, and it's best to look them over sooner than later.

The beginning of a new year is always a good time to set goals to accomplish things you may have neglected. Preparing an estate plan to make clear what to do with your assets when you die is one of those things we often put off until later. Frequently, we ignore the need for estate planning until an event reminds us of its importance, such as the death or incapacity of a loved one or friend. So, what kind of plan is right for you? Various factors enter into the analysis, including your age, marital status, wealth, health and your tolerance for risk.

Single Young Adult

Young adults tend to feel invulnerable and that they do not need to worry about planning their estates. However, if you have a hazardous profession (fire fighter, policeman, pilot, etc.), engage in extreme sports (mountain climbing, sky diving, underwater cave diving, etc.) or have a serious illness, regardless of your youth, you may be more likely to die earlier rather than later in life.

You Have Minor Children

If you have children under 18, you should at least have a will to name who should receive your assets and to name a guardian to take custody and care of your children if you and the other parent die while the children are minors. If you do not designate a guardian, a court will do it for you and the court will monitor how your children's inheritance will be spent or invested until they are adults.

Life Partners

If you are unmarried but in a committed relationship, without a will or trust, Florida law will determine where your assets will go at your death. Unmarried partners will receive nothing and your closest relatives will inherit your property.

Revocable Trusts

By creating a revocable (living) trust, you can avoid the cost and aggravation of probate proceedings your family will experience after your death. A trust allows you to leave your assets to designated beneficiaries at your death without the need for supervision of the probate court. You can revoke or change the terms of your trust at any time and maintain total control over the management of your assets without the approval of anyone else. After your death, your assets can be transferred quickly, without probate, as specified in your trust.

Taxable Estates

If your estate value is more than \$5.25 million (if you die in 2012), estate taxes are payable upon your death. However, the exemption may change in 2013 if Congress initiates other legislation. Without proper estate planning, if your estate exceeds the exemption amount in place at your death, Uncle Sam will be the beneficiary of a substantial portion of your estate.

Elderly or Ill

If you are elderly or have a progressive or terminal illness, you should consider taking immediate steps to plan your estate. Whether you have a modest or taxable estate, it is time to establish an estate plan or update your existing plan. Once you have lost your legal capacity, it is too late to put your wishes in writing and you will be left with no plan or an old, outdated plan. In addition, while you have the ability to do so, you should prepare a durable power of attorney, designation of health care surrogate and living will naming someone to handle your day-to-day financial, health care and life support decisions.

To make sure your wishes are carried out, consult an attorney experienced in estate planning to guide and assist you in preparing a plan that will achieve your goals. **L**



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