



## Can You Set a Few Minutes Aside For Your Family?

*Author: Jennifer D. Port, Esq.*

Important matters - such as the protection of one's family and one's assets in the event of death or disability - are too easily put off for too long. But with only a little time out from one's regular duties, financial and/or estate planning can provide protection that's tailored to each person's needs.

To begin this process, we suggest that you ask yourself (and your spouse or partner, if applicable) the following questions:

- Do you have a Will and/or Revocable Trust? If yes, when was the last time you reviewed the documents, and has the nature of your family and/or your assets significantly changed? Do your Will and/or Revocable Trust represent your present wishes? If you do not have either a Will or a Revocable Trust do you know what will happen to your property when you die?
- Are your Executors and Trustees still appropriate? Do the designated individuals have the desire, time and ability to fulfill their functions if called upon to do so?
- If you have one or more minor children, is the Guardian of your children named in your Will still the person best suited to raise your children if something happens to you?
- Do you have a child or grandchild who was born after your Will or Revocable Trust was prepared? In your existing estate planning documents, has the child or grandchild been properly provided for especially if the individual has special needs? Should your children or grandchildren receive their inheritances outright or would it be best to place the property in trust for the individual's benefit? If trusts are appropriate then at what age or ages do you want the individuals to receive income and principal distributions? Have any of your descendants adopted a child?
- Have any of your relatives created trusts for your benefit where you were given a power of appointment and the exercise of which needs to be reviewed?
- Might you be interested in obtaining life insurance and creating an irrevocable insurance trust that would provide cash needed to pay some if not all of the eventual estate taxes on your assets?
- Are your children now of an age at which trusts for them are no longer necessary? Conversely, should the termination age of one or more trusts created by your Will be extended? Do any of your children have alcohol, substance abuse or creditors problems that need to be taken into consideration in your estate planning documents?
- Are you providing for a disabled parent, child or spouse? Do you

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have an appropriate trust, whether existing or under your Will, which will take care of that individual if something happens to you and not jeopardize that individual's right to receive government benefits?

- Do your estate planning documents contain a trust for your spouse which provides that he or she will be taken care of for life, but that, upon your spouse's death, the remaining assets of the trust will pass to people you have selected - such as your children and grandchildren - rather than to your spouse's next spouse?
- Are you aware that until the current federal tax law expires at the end of 2012, a married couple with assets of up to \$10 million can pay no federal estate tax at all at death, or, because of poor estate planning, can pay in excess of \$1,750,000 in federal estate taxes? Are you aware that each person can currently gift \$5 million during his/her lifetime without incurring a federal gift tax but this tax provision will expire in less than 18 months?
- Might it be desirable to create a trust which will reduce the tax burden when accumulating funds for the education of a child, grandchild, niece, nephew or other person you designate?
- Has one of your children or grandchildren recently gotten married? If so, would you be interested in an arrangement whereby at your death funds are placed in trust and made available to your child or grandchild, and subsequently pass to that person's children rather than to his or her spouse should an event such as divorce or death occur?
- Do you make annual gifts to your children and grandchildren? Are you aware that you and your spouse under the current tax laws can gift \$13,000 each to another individual without any gift tax implications? Are you aware that you and your spouse can directly pay the medical and educational expenses of a child or grandchild without reducing the amount available each year to make tax free annual gifts?
- Are you aware that by creating a "Revocable Trust" or "Living Trust" you could fund the trust during your lifetime and potentially eliminate the need to have your Will probated at death?
- Did you know that life insurance proceeds are subject to federal and state estate taxes, but that there are ways to assure that the proceeds of your existing life insurance policies can be made estate tax free?
- Are you charitably inclined? Do you know that there may be ways to contribute assets to a charity (even a family foundation) or a charitable trust and wind up with a tax deduction *plus* a way to give as much or even more to your family than you started with?
- Are you involved as a partner or a shareholder in a closely-held

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business? If yes, do you have a partnership or shareholder's agreement? Is it up to date? Does it properly provide for what is to happen if you (or your partner or another shareholder) die or become disabled? If the agreement involves descendants of one or more partners or shareholders, does it meet the requirements of the Internal Revenue Code?

- Do you think that a child or your spouse might contest your Will? If yes, have you included provisions in your Will designed to prevent such a contest?

We at Ivey, Barnum & O'Mara, LLC are ready to work with you (and, if you wish, your other advisors) to help with your answers to these questions, to develop or refine your estate or overall financial plan, and to prepare the documents necessary to carry out your wishes. ❖

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