

# Is your Estate Planning in Tact

## TAX AND ESTATE PLANNING

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/EINPresswire.com/ -- Is your estate planning in tact?

It's no secret that many Americans put off creating a will — even those who need it most. But one milestone event often triggers a shift in mindset: the arrival of a child. Usually, it hits people right before they get on a plane for the first time following the child's birth: "If the plane crashes, what happens to our children, and how do we make sure they're taken care of after we're gone?"



Estate Planning

A thoughtful and well-constructed estate plan can make all of these worries obsolete. For heirs who have recently had a child, the four questions below will get them thinking about the key components of their estate plan, focus their attention on the relevant important decisions (reducing billable time with their lawyer) and spur them into action.

Are estate-planning documents in place and up to date?

For most people, "basic" estate-planning documents include the following:

- Will. This is the primary estate-planning document in that it dictates how a person's property will be distributed at death. A will also names the individual in charge of managing distribution of the property — the executor — and includes a nomination of a guardian for any minor children.
- Revocable living trust. In many cases, it's important to have a revocable living trust in addition to a will. For example, in states where probate is unusually expensive or burdensome, a properly funded living trust avoids the expense and delay of a probate proceeding. The living trust becomes the primary estate-planning document, dictating how an individual or couple's property is distributed upon death and who manages the process (in this case, a trustee).
- Financial power of attorney. In a financial power of attorney, an individual names an agent to act on her behalf with respect to her financial matters. The powers granted under a financial power of attorney range from very narrow (i.e., granting the agent power to act on behalf of the

individual with respect to a specific transaction) to very broad (i.e., giving the agent the authority to take virtually any action with respect to the individual's financial matters).

- Health care directive and living will. In this document, which has many different names and comes in many different forms, the individual appoints an agent to make health care decisions in the event she is unable to do so, and also, makes known her end-of-life wishes.

Even if heirs are ahead of the game and already have an estate plan in place, if that plan was created before the major tax law changes of 2018, it should be reviewed by an attorney.

Who should be trustee? Executor? Guardian? Do your clients understand the roles and the differences between them?

These terms can be confusing for heirs, but here's a simple distinction they'll understand: the trustee/executor is in charge of the "stuff," and the guardian is in charge of the children. There will be many intersections of the two roles, but each requires a different skill set, meaning different individuals may be needed:

- Guardian – Charged with raising the children if the heirs are unable to do so, caring for the children on a daily basis.
- Trustee/executor – In charge of overseeing the gathering of the heirs' assets, the payment of taxes and any other final expenses, and then the distribution of the assets to the heirs' beneficiaries. If the heirs' estate-planning documents provide for continuing trusts for the children, the trustee will handle the ongoing management and investment of the assets, as well as the distribution of the assets to the children and their guardians.

What if my children can't handle money?

We looked to [James Lukezic](#) of [Old Slip Capital](#) Partners in New York City for answers. Lukezic states, "much of the success in the succession of estate assets depends on the financial education dependents receive while the heir apparent is still alive, this is critical in predicting outcomes".

If the children are minors, an outright disposition of the clients' assets is not appropriate. This means that after death, continuing trusts will likely be put in place for the benefit of the children, and the heir needs to decide what these trusts will look like. Although estate-planning attorneys will likely have helpful recommendations on how to structure the ongoing trusts for children, some factors heirs must consider include:

- The standard of distribution (How does the trustee determine if a distribution is appropriate?)
- The term of the trusts (Are there mandatory distributions at certain ages, or do the trusts continue for the children's lifetimes?)
- The identity of the trustee

Do you have sufficient life insurance?

Because of the high cost of raising children today, it's important for new parents to consider

purchasing life insurance. There are two basic types:

- Term insurance – Provides coverage for a term of years and pays out a death benefit if the insured dies during the term.
- Permanent insurance – Includes an investment component and is usually structured to pay a death benefit no matter when the owner dies.

One of the primary benefits of insurance is that beneficiaries receive the proceeds free of income tax. Further, if the clients have substantial net worth and purchase an insurance policy with a significant death benefit, it may make sense to hold the policy in an irrevocable life insurance trust. If structured properly, an irrevocable life insurance trust ensures that any insurance proceeds received by the trust are sheltered from the estate tax.

For those who are young and healthy, term insurance is a relatively cheap and effective way to provide an income-tax-free pool of money to provide for surviving children in the case of premature deaths.

Starting the conversation

By working through the four points above, you'll be able to take an important first step in thinking about your estate plan — and you may rest easier while traveling to your next business trip or weekend getaway.

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