



FIRST COAST
WEALTH ADVISORS

Protecting Your Legacy:

NAVIGATING THE COMPLEXITIES OF ESTATE PLANNING

Why Estate Planning Matters

A good estate plan ensures that your wealth will be passed onto the next generation and that your family will be taken care of when you are gone. In the event that you are incapacitated, it also guarantees the continuity of your business plans and provides for someone you trust to make medical decisions for you. Given how critical and personal an estate plan can be, it is never too early to start thinking about yours.

If you already have an estate plan but haven't updated it in a while, there is no time like the present to do so. Your personal situation has no doubt changed over time, as have rules and regulations such as applicable tax laws. In addition, new areas such as digital estate planning may need your careful consideration.

It is not uncommon for people to feel overwhelmed when it comes to thinking about estate planning. Well, not to worry! In this white paper, we

will guide you through what should go into your estate plan. In today's ever-changing world, there are two types of plans that you need to consider: a traditional plan, which protects you, your family, and your physical assets, and a digital plan, which addresses your online footprint.

The Traditional Estate Plan

A well-rounded estate plan will likely include some or all of the following:

- a will, which will appoint an executor for your estate, designate a guardian for your children, list your assets, and specify how you wish them distributed to your heirs;
- a living will, which indicates your preferences for end-of-life care and extreme life-saving measures;
- powers-of-attorney which designate individuals who can make business, legal, and healthcare decisions for you in the event that you become incapacitated;
- a revocable living trust, which can help your heirs avoid a messy probate process;
- and a consideration of estate taxes.

The Will

The will is, of course, the cornerstone of your estate plan. Essentially the will is your instruction manual for how you want your estate to be distributed among your family members or other beneficiaries. It will be

helpful to include a list of your assets, and to update that list frequently as those assets change. If you have children who are minors, the will is where you should specify a guardian for them in the event of your death. You also need to appoint an executor in your will who will oversee the distribution of your assets and pay final expenses and estate taxes. Of course, you should draw up your will in consultation with a qualified estate attorney.

It is important to note that a will is *only* effective once you die. That is why you need to make other arrangements for situations where you might be alive, but incapacitated and unable to make decisions. This is known as a 'living will'.

The Living Will

Should you become incapacitated and unable to make decisions, someone will have to make critical health care decisions for you. This is obviously very important to you personally, but it can also be a very distressing time for your family. It is a good idea to leave guidance on what kind of decisions you want made in regards to your own end-of-life care. This is known as a living will.

A living will specifies to what extent you want life-sustaining measures to be taken in the event of a terminal illness or condition. It is important to communicate these wishes clearly to avoid family conflicts and even court intervention in a critical situation where you are no longer able to speak for yourself. You may wish to couple these wishes with a signed Do Not

Resuscitate (DNR) order from your physician if you would choose not to have extreme life-saving measures taken in the event of an emergency or critical illness.

Powers of Attorney

While a living will specifies what you do and do not want done to extend your life in a critical situation, it does not specify who has the power to make those decisions. *The power of attorney for health care* designates an individual to make medical decisions for you in the event that you are no longer able to do so yourself. It is a good idea to have one drawn up in conjunction with your living will.

Related to the *power of attorney for health care* is the *durable power of attorney*. This is a legal document that specifies a person who will be able to make legal and business decisions on your behalf in the event that you become incapacitated ('traditional' power of attorney terminates if the subject becomes incapacitated). While it is possible to limit the scope of this person's powers, it is still a good idea to choose them carefully as they will be able to sell, invest, spend, and distribute your assets.

The Revocable Living Trust

Under a traditional will, when you die your estate passes into probate, which is the court-supervised process of wrapping up your estate. This can be expensive and time-consuming. It is possible to avoid probate by placing your estate within a *revocable living trust*. A revocable living trust is



'living' because it is created during your lifetime and 'revocable' because it can be altered as needed while you are alive.

The trust document is a signed and notarized paper which lists the property in the trust, names a trustee, and specifies who gets the property when the trust-maker dies. Ordinarily, while the trust-maker is living, they are also the trustee. Once the trust has been created, titled property can be retitled in the name of the trust. Done properly, a revocable living trust decreases the chances of a court dispute over your assets when you die.

A revocable living trust is not an alternative to the will; it exists alongside it. A trust also cannot name an executor for your estate, designate guardians for your children, or specify how taxes and debts are to be paid.

Taxes

Unfortunately, no good estate plan is complete without a consideration of taxes! In 2010, the Federal estate tax exemption was increased to \$5 million and then indexed to inflation. As of 2015, the exclusion is about \$5.43 million. If your estate exceeds this value, you will be subject to the estate tax. However, even if your estate is below the threshold, it may be subject to state estate or inheritance taxes. Since 2001, the Federal government has gradually phased out tax credits for these state taxes.

In 2013, the American Taxpayer Relief Act went into effect. This law allows a spouse, in the event of the death of their partner, to make use of their



federal estate tax exclusion. This has led to some new estate tax planning strategies. It is a good idea to consult a tax attorney or estate planner to discuss your options.

The Digital Estate Plan

An increasingly large part of our lives are lived online. We may keep bank accounts, financial information, emails, photographs, and active social media lives locked away in online accounts. That is why it is becoming so important to create a *digital estate plan* alongside your traditional estate plan. The goal of this plan is two-fold: first, to give your heirs and executors access to critical accounts and documents, and secondly, to track assets which exist mostly online.

Inventory of Online Accounts

The first step in creating a digital estate plan is to simply create a list of key websites along with the account names and passwords necessary to access them. The following is a partial list of the types of websites that should be in your inventory:

- Social Media (Facebook, Twitter, LinkedIn, Instagram)
- Blogs you own (Blogger, Wordpress, LiveJournal, Tumblr)
- Financial accounts (Bank sites, credit card sites, brokerage accounts, retirement plans, loans, and insurance accounts)
- Online Retailers (Amazon, Ebay)



- Email Accounts (Gmail, Yahoo, Outlook, Comcast, AT&T, AOL)
- Photo and Video Sharing Sites (Flickr, YouTube, Vimeo)
- Music Sites (Pandora, Spotify, iTunes)
- Online Payments (Paypal, Square, VendMo, Google Wallet)
- Utilities (Electric, water, or cable bills)
- Cloud Storage (Google Docs, Dropbox, OneDrive, EverNote)
- Others (Frequent flyer miles, online game accounts)

The digital world doesn't sit still, so you should update this list frequently, keeping the login information on it current and adding and removing sites as necessary. Be careful about where you store this list. Don't leave a copy lying carelessly around on the desktop of your home computer! Print out a copy, store a copy on a portable thumb drive, and lock both up with the rest of your valuable documents. Delete all other copies.

Note that if you are using a password management service, you really only need to keep the password to your service and instructions for accessing it, as that service can act as the key to all the others. It is still a good idea to keep a list of sites that you use, however, so your executor and heirs will know where to look.

Digital Asset Plan

You will also want to write out a plan specifying what to do with your digital assets when you die. Financially-related assets like bank accounts should already be covered by your traditional will or revocable living trust.



Of greater concern are your social media accounts. Do you want them deleted? Or should they remain in place? Your answer will have to be in some part dependent on the policies of the websites themselves.

At this time, the legal regulations that surround digital estate management are still in flux and each website has very different policies and requirements regarding what happens to your account after you die. Facebook, for instance, gives its users two options: delete their profile, or 'memorialize' it in a permanent, unalterable state. Twitter, meanwhile, only allows for account deletion. Facebook also allows users to designate a 'legacy contact' beforehand who can update a memorialized account but Twitter does not. Both sites require different forms of documentation to prove that a user has passed away.

The only major online company to implement a comprehensive digital estate management policy to date is Google. Their Inactive Account Manager is a powerful tool that allows you to specify a period after which your account is declared inactive, setup trusted contacts who will have access to your inactive account, or alternatively, simply delete your account entirely. We expect that over time other companies will imitate this simple, powerful, all-in-one process in the future.

As the question of what to do with a user's account after they have died is still a largely unsettled one, both in legal and in technical terms, we recommend that you do the following: first, maintain a list of your key online accounts with instructions on how to access them, including



usernames and passwords; and secondly, write out guidelines on how you would like those accounts disposed of, and by who.

Leaving a Lasting Legacy

It is critical to protect what you have built in your lifetime by planning for what will happen to it in the future. A robust estate plan is more than just a will: it should include a plan for if you are incapacitated and unable to make decisions that affect your business and your health. It also needs to be regularly updated to account for changing laws and regulations as well as your own personal situation. A 21st century estate plan should include a list of your digital assets and instructions on how to dispose of them.

Creating your estate plan can be an involved process and thus it is important to seek expert guidance to walk you through the complexities. Our wealth management team at First Coast Wealth Advisors can make you aware of the best options for protecting your assets and work directly with your attorney and tax professional to ensure your estate plan meets all your needs. Investing in protecting your estate now will ensure that it is passed on intact to the next generation, giving you and your family peace of mind.

**Call First Coast Wealth Advisors Today at (888) 876-7605
to learn more about our Estate Planning services.**

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