

"Proper planning prevents poor performance, regardless of your net worth." JSB

Is Estate Planning Just For The Rich?

A common misconception is that estate planning is just for the rich. While proper estate planning can provide significant estate tax saving benefits, most estate planning involves planning for unexpected medical emergencies, taking steps to avoid probate, and insulating your assets from creditors. As a result, estate planning is not just for the rich but is for any person who has children (especially a special needs child), is married or single, owns property (especially out of state property), operates a business (especially one with multiple partners) or simply wants to insure their desires are carried out in the event of a medical emergency or at the time of their death.

In the following sections of this article, several non-tax reasons for estate planning will be discussed, including the importance for early planning.

Emergencies

It is unrealistic to believe you can predict your future, let alone accurately predict when a medical emergency might suddenly impact your life or the life of a loved one. As a result, individuals and family members need to plan for medical emergencies and unanticipated deaths prior to the occurrence of the event. By taking the proper planning steps, individuals and family members confronted with these situations can help insure that proper and timely medical decisions will be made as well as minimizing family disputes resulting from uncertainty.

Charitable Giving

The United States Government encourages individuals and businesses to make charitable

donations. To help encourage charitable donations, the government provides federal tax benefits. Proper charitable planning and gifting within your estate plan will maximize these benefits.

Liability / Asset Protection Planning

A common misconception with estate planning is that it is only used to plan for the event of a death. This could not be further from the truth. Estate planning also involves implementing liability and asset protection strategies to help insure a person's hard earned assets (e.g. their home, stocks, bank accounts, property, and business interest) are not lost to creditors, lawsuits or investment schemes.

IRA / 401K Planning

Can you name the beneficiary of your retirement plan at your current place of employment? What about at your prior place of employment? Further, is the person named as your retirement plan beneficiary the same person listed as a beneficiary under your will and trust? Because employer sponsored retirement plans, pensions, life insurance, and IRA's are often not governed by the terms in a will or trust, many people become confused as to this fact resulting in unequal distributions to family members. Therefore, to avoid these unintended results, proper estate planning should be utilized.

Minor Children

For parents with minor children, estate planning is especially important. Specifically, estate planning for minor children insures that proper guardians are selected to care for the minor children in the event

their parents are no longer able to care for them. In addition, parents should execute the BURNS AND BURNS, P.C. Minor Children Parental Consent Form to help insure their children receive timely medical treatment in the event a babysitter, daycare worker or extended family member needs to take the minor child to the emergency room.

Special Needs Children or Incapacitated Adults

For parents with special needs children, estate planning is a necessity! Failure to do so can result in the special needs recipient being disqualified from their receipt of government assistance and/or supplemental security income. Therefore, for the parents or guardians of individuals with special needs, estate planning should be a priority.

Avoid Probate

Probate describes the process a court of law undertakes when settling the liabilities and distributing the probated assets of a person's estate following their death. However, as a result of the cost, length of time, and the public nature of probate, many people choose to take steps during their lifetime to avoid probate all together. One common and cost effective way to avoid probate is to implement a properly funded trust.

Protection For Unmarried Couples

The United States legal system provides many safeguards and benefits for married couples. Unfortunately, many of these same benefits and safeguards do not apply to individuals whose relationships are not legally recognized. As a result, same sex partners and couples in long-term committed relationships cannot always rely on state or federal law for protection. Therefore, if you are looking to provide for a loved one who is not a family member or a partner who is not your legal spouse, you must implement an estate plan to ensure your wishes are legally recognized.

Second Marriage with Prior Children

A common concern for parents with children from prior relationships is insuring that their children from their prior relationships inherit their assets instead of their current spouse's children. Fortunately, common estate planning solutions like the execution of a Q-TIP trust can be used to insure the current spouse

receives certain financial benefits while safeguarding the bulk of the deceased's estate for the benefit of the children from a prior marriage. Unfortunately, many couples in blended families fail to take proper estate planning steps for fear that an estate planning conversation may cause undue financial and emotional stress in their current marriage. In reality, the long-term family stress and potential litigation resulting from failed estate planning will likely outweigh any perceived concerns by a family member confronted with this type of situation.

Business Decisions

For co-owners of a business their inability to act independently concerning financial decisions can have negative consequences on the ongoing operation of the business. Further, failing to have a written agreement detailing how the business is to be managed, priced in the event of its sale or restructured in the event of the departure or death of a partner, can be catastrophic. Therefore, to avoid infighting and promote continuation of business, all business owners should implement an operating agreement, buy/sell agreement, and powers of attorney.

About the Author

Scott F. Burns, Esq.

Scott F. Burns, Esq. is an Arizona attorney whose clientele includes professional athletes, business owners, and families desirous of protecting their personal and professional legacies through the use of asset protection strategies, tax planning, estate planning, and business consulting.

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