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PRACTICING EXCLUSIVELY IN
ESTATE PLANNING · PROBATE · TRUST ADMINISTRATION
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TOMORROWITIS

Why do people procrastinate, especially when it comes to something as fundamental as their Life & Estate Planning? Because it is human nature to avoid unpleasant experiences and people. Period.

For example, when it comes to experiences, disability and death are certainly not at the top of anyone's *must do* list. Even though every



man, woman and child alive today will eventually experience death (according to the actuarial tables of every life insurance company — and a long history of anecdotal evidence in support), American life expectancies are increasing with every medical miracle. That is good news. Now, for some bad news: The longer you live, the greater your chances of wearing out physically and mentally before you pass on. Just visit any local nursing home or hospital for proof.

When it comes to avoiding unpleasant people, most people need not wander too far from their own family tree. And, while many Americans live in a world of

almost unlimited choices, few are able to pick their own parents or the spouses of their own children. In a sense, every extended family is a unique, dynamic ensemble of individual personalities and values. Just like a musical ensemble, family relationships can produce beautiful music or horrific noise, and oftentimes they produce a little of both.

Excuses, Excuses

The hand-maiden of procrastination is *rationalization*. We human beings have an uncanny ability to rationalize our procrastination, commonly in the form of *excuses*. Here are a few

INSIDE

Why doesn't everyone have their final affairs in order, especially in light of the likelihood of incapacity and the certainty of death? Our front-page article in this issue takes aim at the chief culprit: *Tomorrowitis*.

On page three we consider the critical process of selecting and appointing appropriate fiduciaries to handle your financial affairs when you cannot. In fact, this is one of the first (and most important) planning decisions you must make.

representative excuses to postpone proper Life & Estate Planning, along with tongue-in-cheek responses to each of them.

We don't have time, because we are getting ready to do some traveling. Unfortunately, most people spend more time packing their luggage than they do making proper Life & Estate Plans.

My daughter can't get away from work to come with me for an initial consultation. Perhaps it is best to wait until you are incapacitated or dead, so your daughter can take personal time from work and/or from an already crowded family calendar to sort through your

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assets, squabble with her siblings, hire an attorney and develop a first-name relationship with the probate judge.

Since my children all get along, there's no need to bother with any planning. You may be right. They certainly will know your special wishes regarding your home, your bank accounts and your investments, not to mention your one-of-a-kind heirlooms (like the kind over which you and your siblings fought after your parents died).

We don't have an estate tax problem. Why, my business has no value without me. Perhaps, but the IRS may not agree with you, especially given your inventory, equipment, real estate, loyal customer base and goodwill. Aside from potential estate tax problems, what plans have you made for the continuation or sale of your business? The business you worked decades to build could crumble in a few months or be sold for pennies on the dollar to satisfy the IRS and intra-family inheritance conflicts.

It's too expensive. You have spent a lifetime building your



wealth by working hard and making a good return on your investments. Doesn't it make good business sense to invest in professional fees now to avoid unnecessary taxes, protect your financial legacy (both from and for your children, as appropriate) and preserve family harmony later on? What price tag can you put on that *return on investment?*

We have all heard tragic stories about fortunes lost and families torn apart upon a parent's incapacity or death, often due to poor planning or no planning. Conversely, you will enjoy

greater peace of mind when you overcome procrastination through the Life & Estate Planning process.

Conclusion

Proper Life & Estate Planning is a *Lifetime Process*. Once your plan is implemented, it must be properly maintained as important changes inevitably occur in your life, the lives of your loved ones, and to the nature, value and mix of your assets. In addition, as long as Congress is in session and the Oval Office is occupied no wallet is safe.



Ask Yourself...

These Questions Regarding "Tomorrowitis."

- | | |
|--|-----------------------|
| 1. Have I selected financial fiduciaries, both primary and secondary, and am I confident they can handle the responsibilities and risks involved in serving? | Yes No Not Sure |
| 2. Have I identified and valued all of my assets in a written inventory to assist my financial fiduciaries with their responsibilities in the event of my incapacity or death? | Yes No Not Sure |
| 3. Have I selected guardians (i.e., back-up parents) for my minor children in the event they are orphaned? | Yes No Not Sure |
| 4. Have I reviewed and coordinated the beneficiary designations of my life insurance and retirement plans with my overall Life & Estate Plan objectives? | Yes No Not Sure |
| 5. Have I made arrangements in my Life & Estate Plan to safeguard, manage and distribute my assets (to include heirlooms) to loved ones according to my wishes? | Yes No Not Sure |
| 6. Have I made arrangements in my Life & Estate Plan to provide for my favorite charities upon my incapacity and/or death? | Yes No Not Sure |

FINDING FIDUCIARIES

Few Life & Estate Planning decisions are more important than the selection of your financial fiduciaries. After all, they will be responsible for taking care of your assets when you are incapacitated and upon your death. If you find this a difficult decision, then you may tend to procrastinate and eventually become disabled or die without a proper Life & Estate Plan. In this article, we will share some thoughts to help you select appropriate financial fiduciaries and hopefully avoid the *procrastination trap*.

Risky Business

Your fiduciaries will be responsible for all of the financial matters for which you are now responsible. For example, they must safeguard, manage and distribute all of your assets after they satisfy your legitimate creditors and ensure compliance with all tax laws. Fiduciaries are held to the highest legal standards of conduct. This fiduciary duty even extends to the rights of third parties. Teaching point: Along with the honor of being named as the financial fiduciary for another comes great personal exposure to civil and even criminal liability.

Common Candidates

Before they understand the responsibilities and attending risks, many people look first to *family members* as financial fiduciaries. This is natural because family members likely know and care about you as no stranger ever would. Nevertheless, serving as a fiduciary can be an overwhelming responsibility, especially when your fiduciaries have their own busy lives to run.

For many people, *third party professionals* are appropriate financial fiduciaries. Corporate fiduciaries, accountants and attorneys are commonly selected.

It is their business to safeguard, manage and distribute client assets ... and ensure compliance with all tax laws. Also, if these third party professional fiduciaries are unrelated to you and your family members, then valuable asset protection planning may be available.

A popular alternative is a *team approach* where you select both a family member and a third party professional as co-fiduciaries. This approach combines the respective advantages of each. The family member takes care of the non-financial people concerns and the professional takes care of the financial details. Such a combination also helps preserve family relationships when someone must tell a youthful beneficiary that a red sports car is not within the letter or spirit of authorized trust fund expenditures. In other words, it is much easier for a non-family member professional to tell beneficiary Bobby "no," than it is for his favorite uncle (as trustee).



Summary

As you can see, the selection of appropriate financial fiduciaries is critical to the ultimate success of your Life & Estate Plan. Be sure to seek the advice of qualified counsel to help you carefully weigh the pros and cons before making this important decision. Remember: This definitely is an aspect of your Life & Estate Plan where an inappropriate selection could be rather expensive for you and your fiduciaries.

POCKET PROTECTORS Tips to help you protect your pocket!

Informed Giving: Will your gift be tax deductible?

Many worthy charitable organizations solicit your financial support. Before you make a charitable contribution, it may be prudent to determine whether your gift will be tax deductible. Aside from religious institutions and governments, most organizations must apply to the IRS for *qualified* status. Tip: Most legitimate organizations will provide proof of their charitable status upon request.

In the past, you could consult IRS Publication 78 for a listing of most qualified organizations. However, IRS Publication 78 has been incorporated into *Exempt Organizations Select Check*. This convenient online search tool allows users to select an exempt organization and check for information about its federal tax status and filings. Find it at <http://apps.irs.gov/app/eos>.

The stated mission of the BBB (Better Business Bureau) Wise Giving Alliance promotes informed giving and seeks to enable more contributors to make sound giving decisions. Visit their website at <http://www.give.org> or call (703) 276-0100.



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Drucker Law Offices is a full service trusts and estates law firm with its principal offices located in Beverly Hills, California. We practice exclusively in the areas of estate planning, probate administration, trust administration, conservatorships and trusts and estates litigation. Our attorneys bring a sophisticated level of understanding to these complex and technical areas of the law.

Joelle Drucker and Michelle Correll, the firm's attorneys, have extensive experience practicing in large national law firms, but both have chosen to use their skills and experience in a way that allows them the ability to place a greater emphasis on the needs of their clients with a higher level of personal service. We strive for solutions that are practical and cost effective. The foundation and fundamental values of Drucker Law Offices are based on a firm belief in building and maintaining personal long-term relationships with our clients.

For additional information about our law firm, please visit our website at www.druckerlaw.com. If you would like a friend or client to receive our newsletter, please call our office at 310.285.5375 and provide us with their name and e-mail address. Also, please visit and subscribe to our law blog, Practical Trusts and Estates Law Tips Blog, at www.druckerlaw.com/practical-trusts-and-estates-tips-blog/ for insight and commentary on current developments in estate planning, estate tax law, and post-mortem administration that may be helpful to you and your loved ones.