

Estate Planning Checklist

Estate Plan Priorities. As you consider the Estate Planning process, these are critical documents for you to have in place.

- **An up-to-date Will or Living Trust**

As your planning needs change over the years, your **Will** should be updated to manage these changes.

Your first **Will** is usually prepared when there are young children in a family. Needs include passing property to the surviving spouse and naming a Guardian/Trustee to care for and protect the children. As children reach maturity, different concerns will emerge. Wills that were once adequate must be updated to meet new challenges and circumstances.

A **Living Trust** disposes of property in much the same way as a **Will**, while providing other benefits. A Living Trust is a simple and flexible way for you to hold and manage your property. It will also allow for others to act on your behalf at any time it may become necessary. If the Trust contains all your property, then the Estate passes free of probate.

- **A Durable Power of Attorney** Through this document, you appoint a person to manage your property if you become incapacitated. A Power of Attorney applies to property that you have not transferred into a Trust. Formal guardianships on your behalf are normally made unnecessary by this action.
- **A Living Will** Most states now authorize you to make a statement of your desires regarding medical treatment if you become terminally ill. Preferences about the use of "heroic efforts" and artificial life supports are frequently included.
- **A Health Care Power of Attorney** This document allows you to appoint a person to be your representative in making medical decisions for you at any time you are unable to make them yourself.

Your Estate Planning Questions

Our ministry is a member of Barnabas Foundation, an organization that provides Christ-centered Estate Planning and Planned Giving expertise to generous believers, just like you. As one of our supporters, you have access to their services at no cost and with no obligation.

Barnabas Foundation exists to help individuals exercise good Christian stewardship through thoughtful Estate and Gift Planning. A representative from Barnabas Foundation would be happy to visit with you and help you to think through and develop a God-honoring Estate Plan. They can provide you with information addressing any specific concerns or questions you may have. They provide confidential, objective Estate Planning at no cost to you.

Is an Estate Plan the same as a Will?

A Will is a legal document that describes your plans for your property upon your death. It is the foundational document required for all Estate Plans.

If my Estate is small, do I need a Will?

We are all managers of God's resources, whether He has entrusted us with little or much. If you don't have a Will, the state has one for you. Laws are enacted in each state to determine what will be done with the assets of an individual who dies without a Will ("intestate"). Unfortunately, the state's "Will" does not take into account your personal values, Christian commitment, goals, family situation or needs. A Will enables you to decide who will become the next "steward" of the resources God has entrusted to you.

How do I provide for my children's care after I'm gone?

In your Will, you can name the person you would like to be the Guardian of your children. The Guardian has responsibility for the physical care of your children. By naming a Guardian in your Will, you, rather than the local court, can decide who should care for your children if something happens to you. Your children's financial needs can be met by creating a Children's Trust in your Will. It holds all of your assets for your children's benefit until they have reached the level of education you want to provide for them and are mature enough to handle an outright distribution from your Estate. In creating a Trust, you must appoint a person to be in charge of the Trust, called a Trustee. Your Trustee will invest the assets in the Trust and make decisions about their distribution to your children.

Should I consider a Living Trust?

For many people a Revocable Living Trust is an excellent way to implement their Estate Plan. Like a Will, a Trust makes provision for the transfer of your assets at death. Unlike a Will, assets in the Trust are not subject to the costs and delays of probate. During your lifetime, it remains completely under your control.

If structured and funded properly, the use of a Revocable Living Trust can eliminate court costs (except in an unusual situation); lower the amount of attorney time needed to administer your Estate, thus lowering attorney fees; and avoid time delays. In most situations, the successor Trustee can assume management of the Trust immediately. The payment of final bills, collection of insurance monies, sale of appropriate assets, etc., can be done very quickly. The actual time it takes to "administer the Estate of the decedent" by means of a Living Trust often can be reduced by half, as compared with the probate process.

On the other hand, Trusts are not for everyone. Because of the added initial cost, funding requirements and other issues, some people prefer a Will for their primary Estate Planning document. Even with the Trust, it is recommended that you have a Will, often called a "pour-over" Will to cover any assets not included in the Trust at your death.

Will Barnabas Foundation do my legal work?

Barnabas Foundation will assist you in producing a plan that you can take to your local attorney to implement. While we assist you with your Estate Plan, we do not provide legal advice. It is important that your own attorney be involved in this planning process.

What is the Hidden Double Tax?

Hidden double tax refers to the tax liability due on tax-deferred benefits at the time of death. Both income tax and Estate tax may become requirements. Your tax-deferred benefits could be taxed at rates that could total between 15 and 70 percent.

How Does It Happen? (Hidden Double Tax)

Almost everyone today has some form of tax-deferred retirement program because of the tax advantages these programs provide. Retirement money is often a combination of employer-provided pension, profit sharing plans, personal IRA's, KEOGH's, annuities, etc.

The problem is that "tax-deferred" means exactly that. The tax is not eliminated; it is merely delayed until the money is withdrawn during your lifetime or by your children after your death.

Any retirement funds remaining at death are included with your other assets for Federal Estate Tax purposes. Retirement fund assets are also subject to income taxes when they are received by your children. For people in the highest tax brackets, the double tax can send more than 70 cents of each dollar to the Federal government! State taxes may further shrink the amount received by your children to about 25 cents on the dollar.

How Can It Be Eliminated? (Hidden Double Tax)

The IRS now allows those who are at least 70 1/2 years of age, to gift up to \$100,000 from their IRA directly to charities, tax-free.

There are two ways to eliminate the double tax while assuring that retirement funds will be available for you and your spouse until death:

The most direct method is to change the final beneficiary to a specific Christian charity, after you and your spouse. This means that all funds remaining (tax-deferred assets) after the death of both spouses will go to the charity you have chosen.

The other way is to indicate in your Will or Trust that you wish to leave a portion of your Estate to Christian causes, and that the assets used for this gift should be those that have not previously been subject to income tax (known legally as "Income In Respect Of a Decedent").

Either way, all tax-deferred retirement funds remaining at death can be entirely excluded from both income and Estate taxes. The Will or Trust method, since it is broader in scope, has the added potential to eliminate double taxes on other assets as well.

Neither method is difficult to implement but must be structured properly to maximize the benefits. However, due in part to a lack of information about the benefits of giving tax-deferred assets, many planning professionals are not fully aware of how to apply these advantages to particular Estate Plans. Barnabas Foundation professionals are willing to assist you and your advisors in making sure your plan eliminates the double tax.

Contact Barnabas Foundation to see if you are a candidate for these substantial tax savings by calling 1-888-448-3040.