



Estate Planning – How to Avoid Pitfalls Before Losing Your Life Partner... And Potentially Save Time and Thousands of Dollars

Estate planning is the process of arranging and organizing one's assets, properties, and personal affairs to ensure their efficient management and distribution after the individual's death or incapacity. It involves creating a comprehensive plan that outlines how your assets should be handled, who should inherit them, and who will manage your affairs in accordance with your wishes. It is recommended to consult with an estate planning attorney and/or financial advisor who specializes in this area to help you navigate the legal and financial complexities and develop a plan tailored to your specific circumstances.

Below are some of the difficulties that I have encountered working with my clients after losing their partner. Additional issues needing to be resolved only adds stress to an already emotional time.

Regularly review and update, if necessary, your estate documents:

- Wills (and trusts, if applicable). If a person dies without a will, they die "intestate". Their assets and properties are distributed according to the laws of intestacy, which are the default rules established by the state or jurisdiction where the person resided. This most likely would not be the desired method that the deceased person would have chosen for their assets to be distributed.
 - A couple may have their documents properly set up and one of the parties develops dementia. Often times the healthy partner becomes the caregiver and can die prematurely, before the party with dementia. They may have set up their estate to give each other their assets upon death. If the caregiver passes first, the party with dementia will be in control of the assets but unable to manage them. It is important to speak with your

estate attorney. He/she may recommend a testamentary special needs trust, which is a trust established in a will or living trust and goes into effect after the creator's death, to be used to provide funds for a surviving loved one who is institutionalized, cover services that Medicaid doesn't, protect Medicaid benefits, and provide funds for additional other needs.

- Power of Attorney, granting authority to someone you trust to handle your financial and legal matters if you become incapacitated or unable to make decisions on your own.
- Healthcare Power of Attorney, which designates a trusted individual to make medical decisions on your behalf if you are unable to do so. It may also include instructions for end-of-life care, such as a living will or advance healthcare directive.

Working with a trusted financial advisor can help you with retirement income and tax planning and avoid unforeseen issues. Example: a client had several accounts, all in her name only, at a local bank. She thought by having many accounts, each account was protected by FDIC insurance, not realizing that the insurance limit is \$250,000 per depositor, per ownership category at each FDIC-insured bank. When your spouse passes, a trusted advisor can also help you properly re-register the accounts that were in your deceased spouse's name or in joint name, and if required minimum distributions need to be taken prior to year end.

It is important to keep in mind that different states may have different rules regarding taxes and estate regulations. It is prudent to have your documents reviewed if you have moved from another state and/or have assets outside your state of domicile.

Property should be titled property, naming a beneficiary. A life insurance contract or an IRA have named beneficiaries. Individual accounts often do not. It is recommended to add "Transfer on Death" (or "Payable on Death") to these type accounts to avoid probate. If an asset has to be probated, it requires additional time to settle the estate and could cost thousands of dollars that could be avoided if a beneficiary had been named. Payable or Transfer on Death with a named beneficiary can and should also be added to an account listed in joint name (example, John and Jane Doe). All financial accounts should also have a named Power of Attorney,

authorizing someone you trust to act upon your behalf if you should become incapacitated or unable to make decisions on your own. Once you pass, the Power of Attorney document becomes invalid, and the authorized agent can no longer act upon your behalf.

A list of all incoming deposits and outgoing payments into/from all accounts should be fully documented, especially if both partners are not involved in the household financial responsibilities (record keeping and bill paying).

A list of all your passwords or instructions how to access the passwords online should be written down so your partner will know how to access them.

Name your partner and trusted individuals as your legacy contacts to manage your social media accounts; ie, iCloud and FaceBook, so your data can be accessed after your passing.

Own a credit card in your own name. If you are listed as a secondary card holder or authorized user, once the card holder passes, the account is closed. ALL credit cards associated with the account are closed, and online access is denied. This could take a few weeks to open and receive a new credit card in your own name.

If you have a Safe Deposit Box, make sure your partner and executor know where the key is. Your executor should be named as an owner of your Safe Deposit Box so he/she can easily access the contents after your passing.

DO NOT PROCRASTINATE!

“By failing to plan, you are preparing to fail.”
(Benjamin Franklin)