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Ohio Estate Planning Mini-Guide

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How many times has the thought of preparing a will or changing the beneficiary on an insurance policy crossed your mind? Or better yet, the thought of who will care for yourself or your children if you are incapacitated or pass away? Many times, people have mentioned the need to address these crucial questions without taking any action. Death and estate planning can be an uncomfortable topic for anyone, but estate planning does not have to be morbid or even difficult. In fact, many find greater peace of mind knowing that they have their affairs in order should anything befall them.

So where do you start?

1. **Set a Date**—Review your financial and personal affairs annually,. Set this date close to an important time in your life or holiday so you will remember to do it.
2. **Get Organized**—Make a list of your assets including bank accounts, investments, insurance policies, real estate, automobiles and any other thing of value. Include account numbers, approximate value of each item and access information (user name and password or simply the asset's location). Also list how the asset is titled and owned and whether there is a named beneficiary.
3. **Prepare**—At the very least, everyone should have a valid will, designate a financial power of attorney and designate a medical power of attorney. However, the following outline discusses the steps each person should consider when reviewing their estate plan.
 - a. **Assign Beneficiaries**—Review your life insurance policies, bank accounts, stocks, bonds, retirement accounts and name the proper beneficiary. This allows for an easy and automatic transfer to the beneficiary when you die.
 - b. **Create and Execute a Will**—A properly executed will is central to any estate plan. A valid will ensures your wishes are carried out after you die. It allows *you* to decide how your property is distributed, how your burial or cremation is carried out, who will care for your minor children and who will manage your minor children's inheritance. Absent a properly executed will, you may have no say in these matters.
 - c. **Consider Probate Avoidance**
 - i. **Retitling Property**—Naming a spouse or other individual as a joint tenant with right of survivorship automatically transfers the ownership of the property to the surviving owner upon the other's death. While this sounds easy, a thorough review by a competent

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attorney is necessary to determine whether this action would expose the property to creditors of the other party, have negative consequences should one of the owner file for bankruptcy, or create unintended negative tax consequences. While this may be an option for some, a careful evaluation is necessary to prevent unintended problems in the future.

- ii. **Transfer on Death Affidavit**—A Transfer on Death Affidavit is an easy way to avoid probate. A Transfer on Death Affidavit permits the property owner, property owners or husband and wife to execute an affidavit which provides for the names of beneficiaries upon the passing of the owner. It also allows for a contingent beneficiaries to be named should the named beneficiary not survive the owner.
- iii. **Trust**—Though not appropriate in all circumstances, a trust may be the perfect vehicle to keep your affairs private and to avoid probate. A trust avoids probate because after your death, the trust property is not part of your estate for probate purposes. It is however, generally part of your estate for Federal and Ohio estate tax purposes. A trustee becomes the owner of the trust property and, after your passing, the trustee transfers the property according to the trust document. Often, you may name yourself as the trustee while you are alive and appoint a successor to take your place after death or incapacity. Trusts can be particularly useful for handling out-of-state real estate.
- d. **Financial Power of Attorney**—This allows you to designate who handles your finances should you be unable. There are many options when creating a POA. The authority granted can be as broad or as limited as you want, and the POA can be in place immediately or only upon the occurrence of a specified event.
- e. **Medical Power of Attorney**—This allows you to decide who makes important medical decisions if you are unable. Often this is a spouse, but you can also designate other trusted individuals.
- f. **Living Will**— Make known today your wishes regarding life prolonging medical treatments.
- g. **Retirement/Insurance Needs**—Each year your retirement and insurance needs change. Review these needs with a financial planner to make sure your retirement savings and insurance needs are adequate.
- h. **Social Media**—Facebook, Twitter, LinkedIn and other forms of social media have changed the way people communicate and store information. Before, a cherished photo album or letters could easily be left to a family member upon your passing, and you would have peace of mind that cherished items would be cared for and enjoyed. Today, many people store their photographs and communications online. My family has a Facebook account to share photos and other important information with each other. What happens to the information stored on Facebook, Twitter or LinkedIn upon your passing? If this is important to you, it should be considered in

your estate planning. Facebook, Twitter and LinkedIn all have policies and procedures addressing these concerns.

- i. **Advance Estate Planning**—If you are a high networth individual, you may benefit from making gifts before your death.
- j. **Business Succession**—If you own a business, make sure you have detailed plans for succession in place in the event of your passing. This may include naming your successor, detailing a buyout, or arranging for liquidation.

The foregoing list is daunting, but in reality, all of these concerns can be taken care of quite easily. Often, the majority of this may be taken care of without ever leaving your home. Simply answer the following questions and provide copies of the following documents to your attorney:

QUESTIONS

- How do you want your property distributed?
- Who do you want to be the executor of your will?
- Who do you want to care for your minor children?
- Who do you want to be in charge of your finances?
- Who do you want to be in charge of your medical affairs?
- Do you have any specific instructions or questions concerning any of the topics discussed above?
 - Probate avoidance (transfer on death affidavit, trust, retitling property, etc.)?
 - Advance Estate Planning?
 - Business Succession?
 - Other?
- Do you have any other questions or concerns?

REQUESTED DOCUMENTS

- A list of all assets and liabilities
- Title policy or legal description of any real estate you own including your personal residence.
- The most recent statements from your checking, savings, investment or other financial account.
- Copy of all life insurance policies or annuities. Make sure these documents indicate your ownership and who your beneficiary is.
- Most recent statement for each retirement account including 401(K)s, IRAs, pension plans, etc.
- Your most recent personal and/or business income tax return.

Disclaimer: This general information is not intended as legal opinion or advice, nor a complete estate planning discussion, and refers to Ohio law - your state's provisions may differ. As each situation is different, you should seek independent legal advice from an attorney for specific information.

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