

FINANCIAL PLANNING: SECURITY FOR YOUR FUTURE

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INTRODUCTION – KEVIN HUSS

- Attorney with Lumbertown Law, PLLC
- I have practiced law in Muskegon since 2008.
- I hold a Certificate of Completion in the areas of probate and estate planning issued by the Institute for Continuing Legal Education and the Probate and Estate Planning Section of the State Bar of Michigan
- I am a lifelong Muskegon resident, and I am involved in the community, serving on a number of local boards



- Began March 1, 2022
- Practice focused on:
 - Estate Planning
 - Probate & Trust Administration
 - Real Estate
 - Business Law
- Down-to-earth, approachable and focused on client-driven outcomes
- Located in Downtown Muskegon

ESTATE PLANNING IS IMPORTANT TO PROVIDE SECURITY FOR YOUR FUTURE

- Estate planning provides security in the event of incapacity by:
 - Controlling assets, and who can make decisions regarding those assets
 - Controlling decisions about your medical care, and who can make those decisions
- Estate planning also provides security in the event of death by:
 - Identifying who receives assets upon your death, and when
 - Minimizing legal fees and taxes
 - Reducing stress for heirs
- Most importantly, estate planning can help avoid Probate Court involvement upon incapacity or death

TOOLS USED IN AN ESTATE PLAN

- Account Registrations & Beneficiary Designations
- Life Insurance
- Joint Ownership / Life Estates
- Powers of Attorney
- Patient Advocate Designations
- Wills
- Trusts
- Transfer on Death
- Gifting





ACCOUNT REGISTRATIONS

- Types of Accounts:
 - Credit Union / Bank Accounts
 - Pension
 - Real Estate
 - Vehicles
 - Stocks / Bonds
- Joint Ownership versus signature authority

BENEFICIARY DESIGNATIONS

- You designate a beneficiary to receive the account upon your death, but retain ownership of the account while you are living
- Beneficiary designations are a contract between you and the custodian of the account
- Beneficiaries receive assets outside of Will or Trust
- Important to Keep Current
- Examples of Accounts with Beneficiary Designations:
 - Life Insurance Policies
 - Retirement Accounts (i.e. IRA, 401(k), Annuity, etc.)
 - Other Investment Accounts

LIFE INSURANCE

- Can be used to offset expenses associated with death, including:
 - Funeral & Burial
 - Estate administration fees
 - Estate taxes
- Provides immediate source of funds for beneficiaries



TYPES OF LIFE INSURANCE

- Term
 - Protects dependents from financial hardship
 - Death benefits pass free from federal income tax
 - Less expensive
 - 15-20 years of protection
 - May be converted to Whole
- Whole / Permanent
 - Entire lifetime coverage
 - Earnings may be tax-deferred
 - Loans are generally tax-free
 - Death benefits pass free from federal income tax
 - Can provide some investment opportunities

JOINT OWNERSHIP

- Different forms of joint ownership have different implications
- If done correctly, surviving joint owner can get full ownership
- Only postpones probate – does not completely avoid it
- Can result in unintentional disinheritance
- Incapacity requires court intervention
- Can be difficult to remove a joint owner in the event of a dispute
- Invites conflicts and lawsuits
- Issues with payment of debts and taxes

LIFE ESTATES / LADY BIRD DEEDS



- Primarily used for real estate
- Original owner retains ownership during lifetime, with complete control over property during lifetime
- Upon death of original owner, if property is still owned, it passes to designated beneficiaries
- Avoids Probate
- Maintains real estate as exempt for Medicaid purposes
- Effective way to transfer real property easily

POWERS OF ATTORNEY

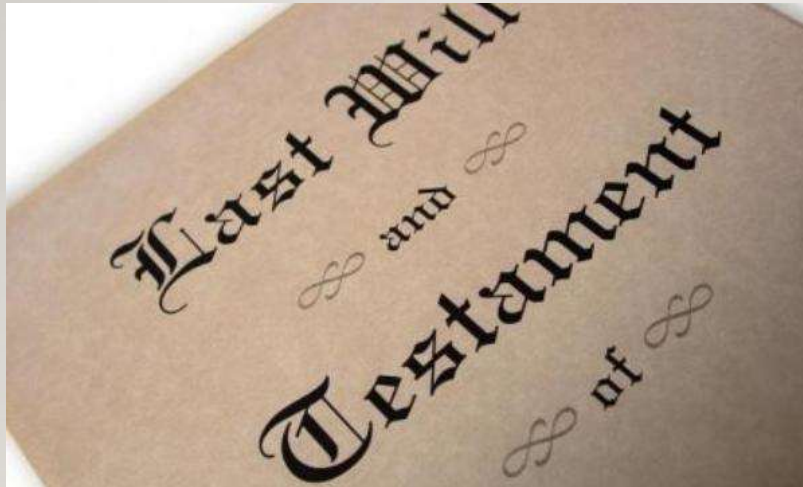
- Allows you to designate someone to manage your financial and property affairs
- Agent is legally allowed to access and control accounts and property
- Three major kinds:
 - Specific Purpose
 - General Durable Power of Attorney Effective Immediately
 - General Durable Power of Attorney Effective Upon Disability
- Revocable at any time
- Authority terminates upon death of principal

PATIENT ADVOCATE DESIGNATIONS

- Names Patient Advocate
- Patient Advocate has authority to make medical decisions in the event you are unable to make those decisions for yourself
- Avoids need for Court oversight
- Can contain power to “pull the plug” in the event of certain circumstances



WILLS



- Governs the distribution of assets in your name upon your death
- Appoints a Personal Representative to administer your estate upon your death
- Wills must be admitted to Probate before Personal Representative can act

WHAT IF YOU DIE WITHOUT A WILL?

- Laws of “Intestate Succession” govern distribution of your property
 - Established under state law
 - Various formulas depending on family circumstances
- Person(s) with priority under the law can apply to become Personal Representative



WHAT IS A PERSONAL REPRESENTATIVE

- The person appointed by the Probate Court to administer your estate
- Responsibilities include:
 - Collecting assets of the estate
 - Paying final expenses
 - Filing tax return(s)
 - Distributing assets to heirs or beneficiaries
- Has to report to Probate Court during administration
- Has to file documentation to close estate after completing administration

WHAT IS PROBATE?



- Process of determining validity of Will
 - Was it properly signed?
 - Has it been revoked?
- Process of administering and distributing estate
- Most often informal
- Takes at least 6 months to complete
- Open to public inspection

WHAT IS A TRUST?

- A legal arrangement where a person (the “Settlor”) gives control of property to a person or institution (the “Trustee”) for the benefit of beneficiaries
- Created during lifetime, and can be changed or revoked at any time prior to death or incapacity
- Trusts can be used to administer and distribute assets following death, but can also provide for management during lifetime
- Trusts aren’t for everyone, but they’re not just for the ultra wealthy either

WHY MIGHT A TRUST MAKE SENSE?

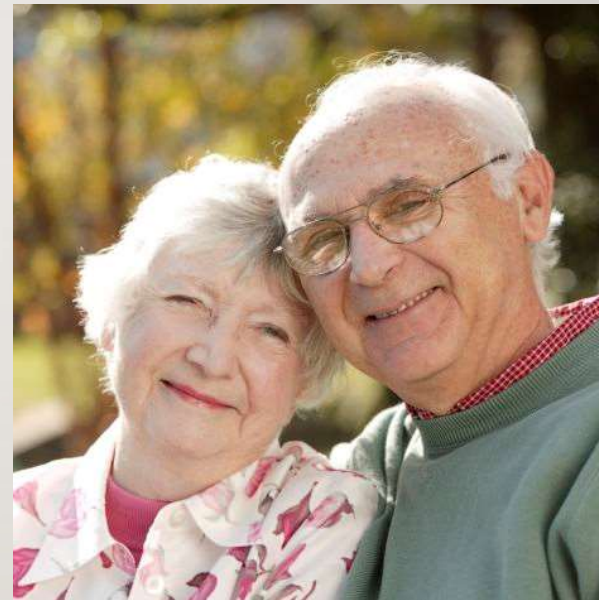
- Providing for family members with special needs or who are receiving governmental assistance
- Restricting or drawing out inheritance over time
- Keeping distribution of assets private after death
- Greater deal of flexibility for administering and distributing assets
- Avoids probate (if funded properly)
- Also provides vehicle to manage assets in the event of incapacity

TRANSFER ON DEATH

- Quickly and efficiently transfers assets upon death
- Avoids probate
- Allows financial institution to transfer account assets with a death certificate and (usually) a claim form
- May be modified or revoked during lifetime
- Transfers happen outside of Will or Trust

GIFTING

- Person giving gift gives up control of asset during lifetime
- Gifted asset becomes unavailable in the event of need
- Can result in penalties if Medicaid benefits are needed
- Potential gift tax and income tax implications



SELECTING TRUSTED AGENTS

- In estate planning process, it is important to nominate trusted individuals for a variety of roles
- Primarily two types of roles:
 - Medical
 - Financial / Property
- Most important consideration is nominating someone you trust
 - Protect you and your assets
 - Carry out your wishes

SELECTING TRUSTED AGENTS

- Until your death or incapacity, you maintain control over your assets
- Upon death or incapacity, the nominated agents take over
- Agents can be:
 - Family members (spouses, children, grandchildren, siblings)
 - Trusted friends
 - Trusted advisors
 - Hired professionals

SELECTING TRUSTED AGENTS

- Factors to consider:
 - Relationship with you
 - Proximity to you
 - Ability to carry out your wishes
 - Willingness to carry out your wishes
 - Background of person (i.e. working in financial or medical field)
 - Experience managing financial or medical affairs

SHOULD I HIRE A PROFESSIONAL?

PROS OF PROFESSIONAL AGENTS

- Experienced in managing financial affairs
- Fair and unbiased
- Willing and able to devote the time needed
- Staff members and legal team to get things done correctly
- Should be insured and/or bonded so there is recourse in the event of an error

CONS OF PROFESSIONAL AGENTS

- Fee-based, so more expensive than friend or family member
- Don't do anything for free
- Sometimes too conservative to meet needs and desires of principal or beneficiaries

WHAT IS THE ROLE OF EACH AGENT?

- Maintain your assets during lifetime, and then administer and distribute them according to your wishes upon death
- Establish investment strategies
- Keep records of all assets and activities
- Pay your expenses, during lifetime and after death
- Make distributions to you or your beneficiaries according to the terms of your estate planning documents

DANGERS OF “DIY” ESTATE PLANNING

- Just like “DIY” home improvement projects, “DIY” estate planning can end in frustration
- Unfortunately, most people never really know whether their “DIY” estate plan works
- Use of improper terminology, improper signing formalities, etc. can cause the entire estate plan to fail
- Rules concerning signatures on estate planning documents are very specific

SAMPLE DIY ESTATE PLAN

- John is a widower with 2 adult children
- John has a bank account with \$200,000 and a home worth \$200,000
- John's DIY solution:
 - Add son David as joint tenant with right of survivorship on home
 - Add daughter Nancy as joint owner on bank account
- Upon John's death:
 - David becomes owner of home outright
 - Nancy discovers that John spent all of the money in his bank account prior to death, so she is left with nothing
 - David refuses to split the house with Nancy because "Dad wanted me to have the house"
 - David and Nancy's relationship is never the same

OTHER REASONS TO HIRE A LAWYER FOR ESTATE PLANNING

- Tax guidance
- Coordinating probate and non-probate assets
- Special needs planning
- Same sex couples and other relationships
- Preparing for estate administration
- Medicaid planning
- Ensuring your documents will accomplish your goals

RECENT DEVELOPMENTS IN ESTATE PLANNING

- Fiduciary Access to Digital Assets Act
 - Gives agents right to access and control digital assets
 - Specifically applies to service providers in Michigan and digital assets used in Michigan
 - Does not override digital beneficiary designations
 - Does not apply to assets of employer used in employment
- Funeral Representative legislation
 - Allows designation of Funeral Representative to make and carry out final arrangements
 - Identifies priority for individuals to make final decisions
 - Can be designated in Will or other document

QUESTIONS?

Thank you for attending today!

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