Protecting Your Legacy: Estate Planning and Probate Pointers

ERIN B. PATTERSON, JD, CPA
STEWART LAW, P.A.
Defining “Legacy”

- Beginning with the end in mind
- “We all die. The goal isn't to live forever; the goal is to create something that will.” – Chuck Palahniuk

“And to my teenage grandchildren, I leave my unused phone minutes.”
### 2 Types of Planning

<table>
<thead>
<tr>
<th></th>
<th><strong>ESTATE PLANNING</strong></th>
<th><strong>LEGACY PLANNING</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mindset</strong></td>
<td><em>Practical</em> – avoiding disaster and making processes smooth</td>
<td><em>Emotional</em> – family values are appreciated and transferred</td>
</tr>
<tr>
<td><strong>Basic</strong></td>
<td>Avoiding Disaster</td>
<td>Communication</td>
</tr>
<tr>
<td><strong>Advanced</strong></td>
<td>Implementation &amp; Probate Avoidance</td>
<td>Living Your Legacy</td>
</tr>
</tbody>
</table>
Estate Planning

- Avoiding disaster = avoiding intestacy
- Only 42% of American adults have an estate plan
  - Famous Examples
- Justifications:
  - I don’t have an “estate”
  - Uncomfortable topic
  - It’s too expensive
  - I’ll do it later - I’m still young!
Estate Planning - Basic

• **The Essentials:**
  o Will
  o Financial Power of Attorney
  o Health Care Power of Attorney including Living Will

• **Goals:**
  o Clear disposition of assets
  o Clear appointment of agents to carry out wishes
Estate Planning - Basic

- Time changes everything
  - Laws
  - Families
  - Wishes
- When is the last time you looked at your documents?
- Rule of Thumb: Review for updates:
  - At least every 3-5 years; or
  - Anytime there is a major life event
Step 1: Get Organized

Documents
- Where are they stored?
- How do your agents get access?
- Destroy old/outdated documents

Advisors
- Financial advisor, CPA, attorney, banker, employer
- Names and contact information
- Ensuring all aware of plan
Step 1: Get Organized

Assets & Liabilities
- Updated financial statement
- Digital asset inventory
- Streamline & consolidate

Wishes
- Funeral and burial plan
- Pets
- Letters to heirs
Step 2: Minimize or Eliminate Probate

- The “Ugly” Side of Probate:
  - Time $\rightarrow$ 4 months minimum, usually 1 year+
  - No Privacy $\rightarrow$ court filings are public record
  - Expensive $\rightarrow$ court fees, advisor and attorney fees
  - Emotional $\rightarrow$ strain on the family

- Probate vs. Non-Probate Assets
  - Non-probate: JWROS & POD assets, life insurance w/ BD, retirement accounts w/ BD, trust assets
  - Probate: everything else
Step 2: Minimize or Eliminate Probate

- Exceptions to Full Probate:
  - Solely assets not subject to administration
    - Revocable trust (contract), governed by beneficiary designation (contract), titling such as JWROS (law)
  - Family allowances ($30,000 – spouse; $5,000- child)
  - Small estate (less than $20,000 – or $30,000 if spouse is the sole heir)
  - Summary administration (spouse is sole heir)
  - Vehicles or real estate are only assets
Step 2: Minimize or Eliminate Probate

1. Locate Documents, Advisors, Assets
2. Initial Court Filing
3. Open Estate Account
4. Notice to Creditors
5. 90 Day Inventory
6. Claims Bar Date – Pay Expenses
7. Tax Filings
8. Asset Distribution
9. Final/Annual Account
Step 2: Minimize or Eliminate Probate

- Streamline & consolidate assets
  - Fewer institutions
  - Divest of unused assets (e.g. timeshares, vehicles)
- Move assets out of probate category
- Check beneficiary designations regularly
- Bottom line: Plan ahead and be proactive to provide financial stability and eliminate stress for family members in difficult times
Legacy Planning

- What values are most important to your family?
- Requires a 360 degree view:
  - Ancestors
  - You
  - Future Generations
- Many don’t consider the importance of these intangible concepts
- Justifications:
  - Just a tool for the ultra wealthy
  - Sounds “hokey”
  - Uncomfortable topic
    - “I’m too modest”
    - “It will scare my family”
    - “It will de-motivate my heirs”
Legacy Planning - Basic

- **Goals:**
  - Open lines of **communication**
  - Heirs understand and appreciate values

- **Tools to Accomplish:**
  - Family meetings
  - Letter of Wishes
Legacy Planning - Basic

- **Family Meetings:**
  - Age appropriate
  - One-on-one vs. group settings
  - Start small
  - Topics:
    - Not always money, assets, wealth
    - Focus is on stories/history, common purpose, problem solving and trust
Legacy Planning - Basic

- **Letter of Wishes:**
  - To Executor/Trustee/Heirs
  - In your own words, not legally binding
  - Topics:
    - Most important values to you
    - Desired uses of inherited assets
    - How you want to be remembered
    - Wishes and hopes for future generations
Legacy Planning - Advanced

**Step 1: Write Your Legacy Plan**

- Family History
- Traditions
- Experiences
- Accomplishments
- Hopes for the Future
Step 2: Educate and Involve Heirs

Wealth v. Money
- Could I start a conversation about how thoughtful investment, spending and charitable giving contribute to our family’s greater purpose?

Practicing Wealth Management
- Could I coach my heirs on appropriate uses of the wealth I intend to leave them by beginning with lifetime gifts?

A Seat at the Table
- Could I further educate my heirs by allowing them to attend meetings with me and my advisors?
Legacy Planning - Advanced

Step 3: Plan for Unique Assets and Wishes

- **Self**
  - Business Interests
  - Asset Protection

- **Family**
  - Special Needs
  - Irrevocable Trusts

- **Community**
  - Volunteer
  - Charitable Giving
Final Thoughts

- Ongoing process
- Be proactive
- Think “outside the box” and beyond the basics

Level 4: Legacy
Level 3: Communication
Level 2: Implementation & Probate Avoidance
Level 1: Avoiding Disaster
Questions?

ERIN B. PATTERSON, JD, CPA
STEWART LAW, P.A.
Legal Disclaimer

The contents of this presentation are intended to convey general information only and not to provide legal advice or opinions. The contents of this presentation should not be construed as, and should not be relied upon for, legal or tax advice in any particular circumstance or fact situation. The information presented in this presentation may not reflect the most current legal developments. Further, this presentation may contain technical inaccuracies or typographical errors. No action should be taken in reliance on the information contained in this presentation and we disclaim all liability in respect to actions taken or not taken based on any or all of the contents of this presentation to the fullest extent permitted by law. An attorney should be contacted for advice on specific legal issues.