

Price & Farrington's Estate and Tax Planning FastFaxts

August, 2005

Estate, Tax, Business and Wealth Planning for Advisors and Clients

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Estate Planning Is Not An ELASTIC Sock: One Size Doesn't Fit Everyone.

One of the most important truths about estate planning is that every individual's or couple's situation is unique to one degree or another. Too often, clients aren't aware of all of the options that are available to them to address their specific planning needs. There is no way they could be expected

to be familiar with the vast playing field of issues, strategies and pitfalls associated with this increasingly specialized area of the law.

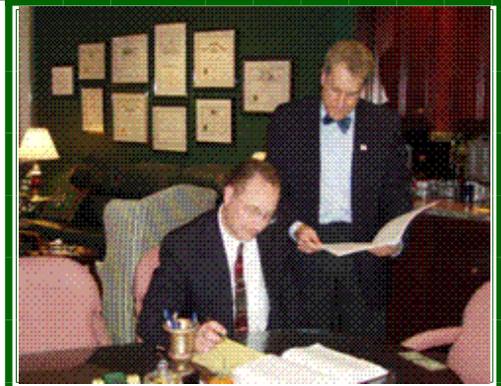
Unfortunately, there are many "practitioners" who can't be bothered to search out and identify the differences between clients' situations. It's easier for them to use a same-size-fits-all "plan" regardless of whether it actually fits the needs of the client. Parsing the specific needs and circumstances of each client — and sharing the pros and cons of available options — takes time. Essentially, the process requires an estate planning attorney and client to become partners, with the goal of creating the best estate plan possible together. This requires an open dialogue and a candid exchange of information. In the end, it's the only way to forge an estate plan customized to the unique family and financial circumstances of each client.

There are far too many factors involved in designing an estate plan to identify in one short article. What follows is a list of some of the most common questions a qualified estate planning attorney should ask a client during the all-important planning process.

Currently married or single?

Were there prior marriages for either or both clients? Did prior marriages end by divorce or death? Was there a divorce judgment or settlement agreement that mandates an ongoing financial obligation? Is there a pre- or post-marital agreement regarding ownership of assets in the current marriage?

What is the health of the client and/or spouse? How old is each client? Where are they with respect to their retirement? Are there concerns about remarriage if one spouse sur-



Chuck Farrington (seated) and Glenn Price

vives the other? Is there a concern about the possible disinheritance of any of the children if the survivor remarries?

Are there children involved?

Natural born, adopted, or step-children? Minors, adults or a combination? What are the children's different needs, strengths, weaknesses or personalities that could bear on effective planning for them? If there are children from previous marriages, what are the custody arrangements and/or financial obligations of the natural parents? Do any of the children have special needs (physical, mental, emotional, financial) that would justify special planning? What is the state of the child's marriage? Rocky? Stable?

Are grandchildren in the picture? Currently? Expected? How many? What are their needs and circumstances? Will they be secondary beneficiaries or is there a desire to do something special and direct for them? How might planning for them dovetail with planning for their parents? Are UTMA accounts always right?

Is there a desire to provide financial assistance to the surviving spouse? How about protection against creditors and predators? Are there any conditions or safeguards desired for how,

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Tuesday, Sept. 27, 8:30-11:30 am

- Individual Defined Benefit Plans
- Investment Fiduciary Practices
- Estate Planning Basics: *Critical!*

Wednesday, Nov. 9, 8:30-11:30 am

- IRA Distribution Planning
- The Next Generation of Turnkey
401K Plans: *Options for your clients.*

Intermediate Estate Planning:
Spotting Red Flags for Clients

Thursday, Dec. 8, 8:30-11:30 am

- Institutional vs. Retail Investing:
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- Advanced Estate Planning Review
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Your Presenters:

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Charles P. Farrington J.D., LL.M.

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when or for what reasons the surviving spouse can access money or property? What's the best way to leave it to them?

Is the distribution pattern for family members after both spouses die set in stone? Are options to allow some degree of adjustment, amendment or discretion desired for the surviving spouse? How much, when, regarding what and to whom?

What are the primary goals and concerns for children? While they're minors? When they're adults? Is education a priority? To what level? Is there a desire to help children with business or professional success? How about assistance with buying a house, going on missionary service, getting married, pursuing a meaningful but low paying career? What type of incentive provisions are desirable? Can children handle an inheritance wisely in one lump sum? Is there interest in options that will provide better protection and safeguards? Will an outright inheritance create tax problems for an heir that could be avoided?

What are the relationship issues, priorities and concerns with family members? With loved ones? Potential heirs? In-laws? Is maintaining the privacy of the estate plan and the asset distribution scheme important? Is probate avoidance an important goal? Who can best handle the administrative or financial management needs of the plan? Who could be trusted to make important financial and/or health care decisions in the event of disability or incapacity? What guidance should be imparted to family and loved ones regarding end-of-life decision-making?

Are there special family assets or heirlooms? Keepsakes? Sentimental items? Important personal property to be designated to go to one person or another? How about assistance or privileges for heirs to continue to live in the

family home or other property until a certain age, event or other circumstances occur?

Are there strained relationships in the family? Caused by drug or alcohol dependency or criminal behavior or some other destructive inclination that could create a desire to exclude an heir? Or, instead, to carefully circumscribe the conditions and circumstances under which the heir would inherit?

Besides the total value of an estate, what is its makeup?

Is there a home or other real property involved? How many? Where are they located? Are there tenants? Are there co-owners besides the clients? How is title held? Are there business interests such as corporation stock or partnerships involved? Is there an exiting buy-sell agreement that is controlling? Should there be one? Are family members intended to stay involved in the business? Does the estate plan provide for a fair distribution among family members who aren't involved in the business?

What kind of insurance does the client own? Life insurance? Disability? Long-term care? Does the life insurance ownership provide estate tax protection? Does it create estate tax problems? How should a large cash value buildup be planned for? Should current life insurance be "refinanced"? Should additional life insurance be acquired and how should it be coordinated with the overall estate plan?

Is charitable giving desired? During life? At death? To the church, the university or some other non-profit organization? How might tax planning dovetail with charitable giving during life or at death? What techniques best suit the client's circumstances and goals? Can doing good be doing well?

Are advanced planning techniques a desirable component of the estate plan? A charitable remainder trust? A qualified personal residence trust? A family limited partnership? A private annuity? Are asset protection or business planning tools appropriate? A limited liability company to own residential rental or other business in-



"Daddy doesn't know any magic tricks. Daddy knows accounting tricks."

terests? A domestic asset protection trust? A GRAT or GRUT or SCIN?

Is Medicaid planning required? For an aging parent? For a spouse? How do the spend-down and exempt asset rules impact and dovetail with other planning goals?

Are there cherished family pets to plan for? What are appropriate provisions for their care? Who should be appointed to serve as the pet's caregiver and what is a reasonable stipend to set aside?

Are the clients involved in a serious same-sex relationship? How should assets be titled? What is the best way to name agents and beneficiaries with maximum privacy and protection from family interference? There are many, many more critically important issues peculiar to same-sex relationships that need to be addressed and very carefully planned for.

Just as a person's choice of clothing varies with age, activity, weather and budget, why should any of us want to try to fit into a one-size-fits-all estate plan? You'll never out-grow the right estate plan; it just might require some alterations now and then. ■

"Nuclear physics is much easier than tax law. It's rational and always works the same way" — J. Rochwald

"The only time the average child is as good as gold is on April 15." —I. Boyett

"I couldn't wait for success, so I went ahead without it." —Jonathan Winters

