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THE HANDBOOK OF ESTATE PLANNING

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THE HANDBOOK OF ESTATE PLANNING

For Liz and Karen

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INTRODUCTION

Our objective in writing this handbook is to familiarize you with the estate-planning process; to impart a good understanding of that process; and to give you a comfort and security level that will motivate you to accomplish your planning objectives by seeking the assistance of estate-planning professionals.

We do not believe that you should attempt to plan your estate by yourself; estate-planning loners will generally not accomplish good planning results. A little bit of knowledge can be very dangerous with regard to the estate-planning process—dangerous if it is viewed as complete or ultimate knowledge. On the other hand, a little bit of knowledge can go a long way if it is used to initiate the selection and monitoring of good professionals to assist you in accomplishing your objectives.

How-to-do-it books may be fun to read, but fill-in-the-blank estate planning can be worse than no planning at all. Good planning necessitates a motivated and knowledgeable client who interacts with professional advisers to bring out the very best in them with respect to their knowledge.

Some people are unfamiliar with what kinds of professionals they should seek to assist them in planning their estates; others know what kinds of professionals they need but do not know how to go about selecting them.

We believe that every estate-planning team should consist of the following professional players:

An estate-planning attorney

An accountant who is well versed in tax knowledge and knows your affairs

A professional life insurance agent who knows the estate-planning process and the general techniques used within it

A financial adviser, if you have one

Today, attorneys are called upon to deal with an enormous volume of law created by an ever-growing and complicated society. In truth, most attorneys tend to get very good at dealing with selected areas of the law. They tend to specialize because of their ability to acquire extraordinary skills in specific legal areas.

In searching for an attorney to plan your estate, you should, in our opinion, always look for the specialist: an attorney who practices in the area of estate planning to the exclusion of most other legal areas. Attorneys who readily fall into this category are tax attorneys.

Some tax attorneys specialize only in the area of income tax planning; the majority spend a significant amount of their time in the estate-planning area as well. There are also nontax attorneys who, because of their clients' needs and because of their desire and experience, are excellent estate planners. They know a lot about tax too.

The problem most people have is where to find that specialist. Many attorneys do not advertise. We believe that people finding themselves in this predicament should ask other advisers for a referral or lead. Accountants, life insurance professionals, and financial advisers have usually had significant dealings with attorneys (both good and bad) and, based on their knowledge and experience, should be delighted to make a recommendation or two. If you do not have these other advisers, you should discuss the matter with the trust officials of your local bank's trust department. Trust officers are generally knowledgeable with respect to local estate-planning attorneys.

By law, and this is true in every state, the attorney is the only adviser who is licensed to write wills and trusts. This does not mean that the attorney should be used to the exclusion of the other advisers we have named. Attorneys are usually not licensed to practice accounting or sell life insurance; they are licensed to practice law. We believe this same concept applies to the other advisers as well.

We believe that our advice in the selection of an attorney applies equally well to the selection of an accountant, a life insurance professional, and other financial advisers. You should always select knowledgeable specialists with the assistance of your other advisers. Just because one of your current advisers is a friend or a relative or just someone you trust does not make that adviser an estate-planning expert. Do not be afraid to expand your planning team.

Professional advisers should be selected for the knowledge they possess within their disciplines. All your advisers should participate in the estate-planning process and should work well not only with you but with each other. In our opinion, there is no room for the professional loner regardless of expertise.

You should encourage all your advisers to work together harmoniously for your benefit. The estate-planning process should manifest the best ideas of each of the professional players and coordinate them into one overall plan that meets your objectives to your satisfaction.

When you meet with your professional team, they will need to know your financial status and should review all your financial documents. Appendix A contains a comprehensive form which we give to clients prior to commencing the planning process. It also provides a list of all documents you should gather for your advisers to review. We strongly encourage you to complete this form prior to meeting with your advisers.

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1

WHAT IS ESTATE PLANNING?

“IT’S MORE THAN MONEY”

It is people: spouses, children, grandchildren, favorite family members, and close friends; their security and prosperity without you. It is state and federal taxes: income, death, and gift. It is lawyers, accountants, insurance people, banks, and financial planners. It is society’s rules along with the red tape and courts of law that accompany those rules. It is a world of advisers busily accomplishing things that most people do not understand. It is time and money!

Estate planning takes time: a little now or a lot later; time to identify and accomplish goals that are personally important; or time to react to a host of external forces that may have their own interests rather than those of your loved ones at heart.

Estate planning involves money, business, and finance. It involves dollars, lots of dollars, to create and maintain a lifestyle for your loved ones after your death. It involves the sacrifice of dollars to purchase life insurance or to invest in a portfolio, in lieu of your personal indulgence, with the sincere belief that you are creating security for you and your loved ones.

Estate planning is human ambition and the fulfillment of that ambition by acquiring and holding property. It is a life statement of commitment to others.

Estate planning is living planning. It is your attempt to use your resources to create an environment for yourself and others that will extend beyond your life. It is the ability to share your success with others. Estate planning allows you the opportunity to control your success both during life and on death.

We have always asked our clients, "What do you want done with your property and insurance after you're gone?" The responses have been different, but they all contained thoughts which could be summarized as follows:

"I would like to give my property to whom I want, in precisely the way I want. Further, I wish my beneficiaries to receive my property when I wish them to receive it.

"But, and this is very important to me, I want to save every last tax dollar, both state and federal, in accomplishing my objectives. Oh yes, I also want to avoid or, at the least, reduce attorneys' fees and court costs.

"Lastly, I don't want myself or my family involved in a lot of red tape that prevents my objectives from being accomplished quickly."

You probably know what you want to do with your property both during life and on death. You are sensitive to the red tape imposed by society's rules. You do need professional help in accomplishing your planning objectives.

You are unique; therefore, planning for you must be unique. Planning, to be good, must fit you; it must be comfortable, like a favorite pair of shoes. You must understand the estate-planning process, for without understanding there can be no comfort. Planning without understanding results, more often than not, in uncertainty and anxiety.

Our main objective is to assist you in understanding the rules, to take the "black magic" out of planning and replace it with knowledge and comfort. We hope to expand your planning horizons.

Your understanding is our mandate. With the comfort of knowledge, you should be able to confidently seek out the professional advisers and products you need. You should have the ability to communicate your goals and objectives to your advisers. On completing this book, you should have a good grasp of the estate-planning process and the techniques it utilizes. You should be able to discern between the knowledgeable professional and the not so knowledgeable profes-

sional. We hope to give you enough understanding of the estate-planning process to enable you to participate in a meaningful dialogue with your advisers in accomplishing your estate-planning objectives.

We have heard many times, "Why do today what I can put off until tomorrow." In estate planning, tomorrow may instantly become today. None of us can, with certainty, predict the timing of our own deaths. Death sneaks up on most of us and respects no time parameters. Statistically, there may be a tomorrow, but don't plan on it! Planning *now* is mandatory.

Estate planning is a process that begins within your life and can continue far after death. It is not unique or indigenous to any economic class. Its audience is America. Its players, Americans. How often we have heard, "Estate planning for me? Heavens, I don't need an estate plan! I have so little." Really? No loved ones, no disposition toward a favorite family member, close friend, or institution (charitable or otherwise)? No property, no insurance or pension plan? No personal possessions, mementos or family heirlooms that require a loving pass-on? No debts?

President Reagan and Congress have passed a massive piece of legislation called the Economic Recovery Tax Act of 1981. We will refer to the act as ERTA. On the whole, this law is most attractive.

For those of you who have planned in the past, we have some good news and some bad news. The good news is that President Reagan and Congress have revolutionized our federal estate- and gift-tax laws. The bottom line is that the new law is terrific for taxpayers. The bad news is that estate plans prepared prior to September 13, 1981, must be reviewed and may have to be redone in order to take full advantage of the new law.

ERTA is not just another technical change in the law that adds additional regulations and red tape. ERTA is the cutting edge of a tax revolution. It gives back a huge piece of America to Americans.

ERTA is a massive piece of legislation most of which is easily understood. It reduces confiscatory taxes that have been an everyday reality for far too long and heralds a new frontier in government's recognition of the role of the individual and the family.

The time for planning to take advantage of the new law is now.