STORY
FAMILY INSTITUTE, LLC
Empowerment for Every Generation

Estate Plan Design Perspectives

In the arena of Estate and Legacy Plan Design there are many sound questions; these first two questions are an excellent starting point. Please invest a moment and think through these first two questions then enjoy the following observations.

1. **Who do you want to ultimately have control of your assets after you and your spouse die, and when, if ever, do you want them to have full, unfettered control?**

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2. **Who do you NOT want to have control of your assets after you and your spouse die, and why not** ____
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3. Observation: Most estate plans, upon the death of both spouses, end up making outright legacy distributions to their children at predetermined ages such as a third of assets at age 30, half of what remains at 35, and the balance at age 40. Consequence: These outright distributions mean that inherited legacy funds re-enter the state and federal estate tax system and subject the assets to claims of the children's creditors. Further, if one of the children subsequently became divorced, the divorcing spouse may get half of the assets inherited by the child. Question: Would you like to explore ways to better protect inherited assets exclusively for your children and grandchildren? ____

4. Observation: Many people add up the numbers and discover that outside of life insurance and retirement plans they have a multi-million-dollar estate. Many of these folks have simple wills or no will at all. Some have the more advanced pour-over will to a revocable trust. Most people with the revocable trust plan, never title their assets in the name of their trust. Consequence: The above situations trigger a public court process called Probate. This means that any family member, business, or unrelated individual can look up the amount of assets that passed and who got them in the case of no will, or just a will. With the improperly titled revocable trust, the type and amount of assets are public knowledge but not who got them. Question: Would you like improved privacy around what your assets are, how much they are worth, and who gets them? ____

5. Observation: Most trusts are amendable (revocable) during the life of the trust creator and they become unchangeable (irrevocable) at the death of the trust creator. Consequence: Because nobody can know the future, creating an irrevocable trust is a daunting consideration which is why most trust creators distribute the trust directly to their children at some point making the assets available to creditors, divorcing spouses, and various taxes. New information: Minnesota now permits appointment of a special person or power known as a "*Trust Protector*" who can watch over an irrevocable trust and make changes to the trust to better serve your intent and your heirs in the event of an unforeseen change in circumstance. Question: Would you like to explore this new power of a "Trust Protector" to add greater flexibility in your estate plan design? ____

6. Observation: Recently, Minnesota courts have made it possible to modernize certain aspects of "*existing*" irrevocable trusts to make them more tax effective or responsive to the needs of today's beneficiaries. Consequence: With this new legal capability and proper counsel, a trust beneficiary can now seek to move their trust to another state like South Dakota where there is no state tax on capital gain or to cause the trustee to permit investment in a lake cabin or other non-market traded assets. Question: Now that you know you have the power to seek change; if you are the beneficiary of a trust that is not fully meeting your needs or whose operating expense seems out of line, would you like a second opinion? ____

7. Observation: Did you know that General Mills, while "residing" in Minnesota, is a Delaware corporation? The reason is because Delaware has a better "governance jurisdiction" than Minnesota. Similarly, states like South Dakota and Nevada have the best "governance jurisdiction" for trusts. Consequence: Even though you live in Minnesota like General Mills, you can create or move a trust to a jurisdiction of your choice. Question: Are you interested to learn why, for tax and other unique design and governance reasons, you might like to move an existing trust or design a trust for your children that will be created in or moved to another state like South Dakota? ____

8. Observation: Most existing trusts, and even anticipated trusts under people's wills, have a corporate trustee like a bank who 1) Manages the money for a significant fee. 2) Interprets, enforces, and administers the trust for beneficiaries. 3) Determines when to distribute (or not distribute) money. In this manner, all trust duties are delegated to the bank or trust company under the umbrella of a traditional type of trust called a "Delegated Trust." Consequence: The unintended consequence of this kind of arrangement is that it can leave beneficiaries feeling dis-empowered, disenchanted, and bitter about how assets were left to them. Question: Would you be interested in learning about a new type of trust that just became part of MN Trust Statutes on January 1, 2016 known as a "Directed Trust" that can leave your beneficiaries with a feeling of greater control, gratitude, and empowerment; a tool that can accomplish many objectives otherwise not possible with a traditional Delegated Trust? ____

9. Observation: Most traditional delegated trusts only invest in liquid financial assets like stocks, bonds, and cash. Consequence: The only way a beneficiary can benefit from this kind of arrangement is to request that money be distributed out of the trust to them personally, thus exposing distributed funds to estate tax, claims of creditors, and divorcing spouses. Question: Would you like to know more about trusts that can own lake cabins, jewelry, residential property, art, antique cars, collectibles, and other property where your children can have “personal use and enjoyment” of trust property while keeping it asset and tax protected within the trust? ____

A couple of qualitative questions:

1. Are you somewhat concerned about the potential damage that your money might do to your children and grandchildren’s motivation to succeed and/or to be fully appreciative of the sacrifices that went into amassing your family’s present wealth? ____

2. In Western Culture, it is unusual to find families who proactively discuss family financial matters with their adult children. If conversations could be arranged comfortably, would you like to broadly dialog with your children about finances in an age appropriate manner? ____

Please feel free to ask questions or make additional comments here:

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Thank you for your participation. We hope these observations and questions have provided new insight and generated new conversation.

We look forward to meeting with you soon to design something exciting, something you are proud of, something you fully understand, something that your children are excited about, something your children are appreciative of, something that empowers them, something that protects your family legacy across many generations, and something which your children and grandchildren fully understand!