Everybody needs an estate plan:

10 basic rules for every estate regardless of size

What usually goes through the mind of many people is that they don't have enough assets to be concerned with an "estate plan". Since Federal Estate Tax is not levied until taxable estates are valued in excess of 5 million dollars, less attention has been placed on the need for estate planning. Most people believe that estate planning is all about tax planning. Let's examine what estate planning is. ***Estate planning is the orderly transfer of assets, in anticipation of death, to another.*** This does not always involve tax elements but for most, non-tax elements are more important than the tax issues.

1- At the very least, do something. Have a basic will drafted, naming someone to take charge of the administration of what you own, whatever it may be. Especially in the case of children. In the absence of a will, you will be leaving this decision up to a lengthy and costly process with the court system. Every family should have at the minimum, a will, medical power of attorney or living will, and a durable power of attorney in the event you need someone to act on your behalf.

2- Keep good records of all assets. Remember when you are gone, there will be no one to ask questions. Update record of assets on a regular basis. If you are working with a financial planner, he/she most likely has high tech programming that can assist you in tracking your assets regardless of where they are held. In these days and times this is critical, to be able to locate the assets.

3- Estimate the cash flow that would be necessary upon death. This is often over looked and actually should be revisited periodically as needs and situations can change. Various liabilities are in demand that will require cash flow within a 9 month period after death occurs and liquidity of the assets is critical at the time of need. Income tax, legal fees, funeral expenses, medical expenses, etc., can be difficult to pay when someone dies with only $20,000 in liquid assets or cash and a business that is valued at $4,000,000.

4- Choose executors and trustees. Often, this decision is the last decision made and is given the least amount of consideration. Keep in mind the role you are asking this person to play. Is he or she cut out for the position? Think over the logistics of your selections. Co-executors living in different locals can be difficult. Oldest son who has a gambling problem may not be a good choice.

5- Anticipate conflicts and reduce them. If you are constantly mediating arguments amongst your children now, then they most likely will not be amicable to manage assets or the going concern of a family business. Consider instruments that divide assets automatically such as a trust, which will continue your control so to speak from the grave. Or in the case of a family business, different classes of shares, or even have the management of the business by a third party.

6- Don't look for the perfect solution. An estate plan has to be a balancing act between your goals, the needs of the family, the tax law, and several other factors. You may even want to decide whether to place constraints on inherited assets so they are not available until a certain age or event.

7- Don't be a control freak. It is sometimes necessary to place constraints on inherited assets because a beneficiary may not have good judgment or experience in handling money but often time's people take this to the extreme and dictate a timetable of how it is to be spent and when. Trustees, executors and heirs need to be able to adjust to changing circumstances.
8- Make your general plans known if your children are expecting you to leave them a small fortune and you leave everything to charity. If your children were expecting you to leave them a sizable inheritance, they may have been blindsided by this and not invested properly during their lifetime for their own good. Let them know ahead of time. If there are any others that you think that may be making assumptions, you should make it known, generally speaking, so those assumptions are dispelled if they are incorrect.
9- DO not circulate your will. You will want the general outline of your plan to be known to those affected, don't circulate the will. You will more than likely have to update it every few years and any changes, will give way for someone to be made upset or just as bad, open the door for the will to be contested years later.
10- Things change. Your plan is never final until you are final. Property and assets change owners and values. Members of the family change from births, marriages, deaths and divorces. Tax laws changes as well as family goals. This is a dynamic process that should be revisited on a regular basis, at least every 2 – 3 years, to review changes in your financial profile, family dynamics as well as legislative changes.

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