

STORY BY JENNIFER STREISAND



PLANNING FOR PROTECTION

While setting up an estate may not be one of life's most pleasant tasks, viewing it as a form of protection for those you care about is a way to make the effort less painstaking.

A person has several different options when planning an estate, but making the commitment to do it is the first step that goes a long way toward completing the process. Because our time of death is a question mark for every human being, planning an estate should be done as soon as it is feasible, says Jack Walkey, an attorney at Ball Eggleston law firm in Lafayette. Walkey is certified in Indiana as an estate planning and administration specialist.

"I suggest that tomorrow may be too late, so do it now," he stresses.

The primary choices that people have when deciding how to plan an estate are to make a will, a trust or a combination of the two. A will is generally less expensive to make during a person's lifetime, but it can create more expense and work for family members after the death of the individual who made the will. The time spent deciphering a will is generally known as probate, and expenses related to the effort sometimes mount significantly, notes Walkey.

"Probate costs are something that should always be considered," he says.

A simple will can cost about \$225 to \$400, but a trust can range from \$850 to \$1,250, says Carolyn S. Holder, an attorney with Holder & Fehrenbach law firm in Lafayette. The trust is often executed while the client is still alive, which gives it the name of living trust.

The advantage of making a living trust is that the purpose of the trust is not just to pass assets, but also might be to help an elderly family member administer his or her affairs, such as paying bills.

"You can name a successor trustee in your trust, who could then step in and manage your property for you, and that could be a trusted relative or a bank with a trust department," Holder explains. "So that if I were in the nursing home or incapacitated, or couldn't sign my own checks, I could turn over management of my assets to the successor that I named in the trust, and that successor could help me in that way, even during my life."

Holder points out that a lot of the work for a trust can be done without court intervention, which makes it an attractive option for people when they plan their estates.

"As long as family members can get along, instead of people administering the will in court, you would just have your family member or members serve as successor trustees, and they could administer what you own and pass it to your designees in your trust without court intervention."

The expense of making a trust during life makes sense according to what needs to be done, Walkey notes.

"Typically, the preparation and implementation of a trust prior to death will cost more than mere preparation of a will," he says. "It should be because in setting up a trust, the client is actually working with an attorney and financial advisors during life to do some of the very things that his family would otherwise have to do after death. It does force the client to get organized."

A living trust can also include a will to pass extraneous financial assets to inheritors such as checking accounts. In this way, an estate can combine a trust and a will, says Holder.

"If you have a living trust, you do have basically what is called a very simple pour-over will, and that says basically that anything

that is titled in my name alone that I haven't titled in the name of my trust, simply pours over into my trust at the time of my death."

It is important to note that a will and/or trust is just one tool used in planning an estate, says Walkey. Many assets will transfer to designees through such accounts as life insurance and retirement programs, which transfer according to beneficiary designation.

"An important job of the estate planner is to confirm ownership of assets, and then plan for the desired disposition, whether by will, trust or beneficiary designation," Walkey says. In addition, the estate planner should make sure that the beneficiaries on life insurance and retirement accounts are consistent with the will or trust to ensure all of the assets are transferring where they are intended, he adds.

People often think that tax issues are a pressing reason to plan an estate, but estate or death taxes generally apply only to larger estates: For 2009, \$3.5 million for federal taxes. This amount may

change in the future. For state taxes, Indiana allowed a tax exemption of \$100,000 per child in 2009.

Where does one find an attorney skilled in estate planning? Within the last five years, Indiana has established a certification in the area of estate planning and administration, Walkey says. Word of mouth is a good way to find an attorney with certification or knowledge in the area, in addition to contacting the Indiana State Bar Association to find attorneys who have this specific certification.

Although families think it will never happen to them, the tragedy of the loss of a loved family member can be compounded by bitter arguments over money. Good planning can avoid such pain.

"A good estate plan goes a long way towards avoiding family disharmony," Walkey explains. "Either failing to plan or failing to review and update plans can often lead to family disaster. Counsel by a good, experienced estate planning attorney can often help families because they can foresee problems and offer practical solutions." ❖

For help finding an estate planning attorney try searching these Web sites:

- Indiana State Bar Association
www.inbar.org
- Martindale-Hubbell
www.martindale.com

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