This booklet is a reprint of a series of articles by Walter A. Murray Jr., Trust Officer of the Bank of Sullivan and retired Associate Circuit Judge - Probate Division.

Planning Ahead to PROTECT YOUR ESTATE

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Forward

The Bank of Sullivan's primary concern has always been to provide the very best service to its customers. In addition to all of the many usual banking services and products it provides a number of unique services. These are a full service brokerage investment department and the trust department. Through these services, the Bank of Sullivan is able to provide its customers with a full range of investment and estate planning advice. The Bank of Sullivan is the only bank in the area to have an active trust department.

This booklet is a compilation of a series of articles written by Walter A. Murray, Jr. and originally printed in the Senior Life Times, a publication of the Missourian Publishing Company. The Bank of Sullivan has reprinted these articles as a service to you, its customers, in the hope that you will find them helpful in your estate planning.

Walter A. Murray, Jr. is the bank's Trust Officer. He is a former Associate Circuit Judge who served 20 years in the probate division. Over that time he was able to accumulate vast knowledge of the estate planning needs of most individuals. He is available to provide services to the bank's customers who are interested in establishing a trust in which the bank will be named as a trustee or successor trustee.

In the event you want to establish a trust, have questions or wish assistance, you may contact the Trust Department of the Bank of Sullivan in person at the Regional I-44 Location, 328 E. South Service Rd, Sullivan, MO or by phone at 573-468-1422.

By Milt Branum, Jr.

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Chapter 1

Budget As Part Of An Estate Plan

The very best way to development of your estate plan is to establish a budget. I know that budget is a nasty word in the minds of a lot of people but without a budget you just don't have a plan. You simply have money and you spend it with perhaps nothing to show for it. You are doing nothing about saving. Without saving you will never have an estate.

Before setting up a budget you must sit down and determine your income and exactly what your expenses total. Then you have to determine whether all of your expenses are appropriate. By that I mean, are all of your expenses necessary and/are they too large? If they are too large you must find a way to pare them down. There are old rules about expenses as a percentage of income. They are tried and true and if followed will serve you well.

Sources of income are generally fairly obvious, such as: wages, salary, tips, alimony, child support, stock dividends, interest on savings accounts, Social Security benefits, pensions, etc. Expenses are easier to overlook. The more obvious ones are: home mortgage payment, car loan, payment for child support or alimony, personal loans, credit cards, utilities, food, clothing, recreation/entertainment, etc. Some expenses we tend to forget are: real estate taxes, household repairs, education expenses, child care, church/charity contributions, auto expenses (gas, repairs, insurance, etc.) life insurance, homeowner's insurance, medical expenses beyond insurance coverage, dental expenses, club dues, hobbies, etc. Perhaps looking over your bills from the last several months will help you determine the amount you spend in these various areas. This will help you establish the numbers to put into your budget.

Once you have determined your income and expenses you must include some percentage of your income for savings. Hopefully your income will be greater than your expenses thus allowing for savings. However, if your expenses are too great they must be reduced or your income must be increased. If there is nothing left at the end of the month, you have nothing leftover for investment. You must save something each month. If you don't you will never have an estate.

Making the house payment is a form of savings but not one that will ever produce income. In fact it requires you to pay expenses such as maintenance/upkeep, insurance and taxes which will be ongoing expenses for as long as you own your home. The only way to get money out of your home is by selling it or entering into a reverse mortgage. [See chapter on reverse mortgages.] You need income producing assets to build an estate. Remember your estate is much more than just something to pass on to your heirs. It is also a necessary source of income for you to use in your retirement so you can better enjoy the "Golden Years".

Let's look at some of those old investment rules to help determine whether your expenses are within the appropriate ranges. While there are many rules, we only have space for a few of them. The following are the basic rules for your home, car, credit cards and savings.

Your home expenses should not exceed twenty eight percent of your income. This is a number established during the great depression. It includes your mortgage payment, insurance and taxes. Generally you can afford a home that costs two and one-half times your annual income.

Your other debt, car loan, student loan and credit cards, should not be greater than eight percent of your income. You should never have a credit card balance greater than thirty percent of your credit limit. Always pay more than the minimum monthly payment and if possible pay the entire balance.

Your car should not cost more than three months income. A car loan should never be more than five years and less if you can afford a larger payment. Remember the shorter the term the larger the payment; but,

you will be charged a lower interest rate and in the long run the total cost of the car (purchase price plus interest) will be much less.

You should save ten percent of your income for investment and have a cash reserve fund of three to six months income to be used only in case of emergencies. These are basic tried and true rules for saving. Which, if followed, will allow you to live within your means and save money to invest and build an estate both for yourself and to pass on to your heirs.

There are any number of helpful tax rules which have been established to help you save your money. Examples of these are 401(k) plans, Keogh, IRAs and Roth-IRAs. You should take advantage of these if you qualify. If your employer matches your contribution take advantage of that and make the maximum contribution.

The first challenge is establishing a budget which will allow you to save. Hopefully this chapter will be of assistance. Then comes determining how to invest the money you have saved. The matter of actually investing your assets should be done in such a way as to minimize the risk and maximize the income. In today's investment market it is impossible for me to assist you in this area. You must discuss this with your investment advisor who will know and understand your individual needs and help you establish your investment goals.

Chapter 2

Owning Your Assets In Joint Names

We all have some assets and with that comes a desire to both preserve them during our lives and to dispose of them in a simple, convenient and prompt manner at our death. How we do that depends on any number of facts to which various laws apply. One very common method is to title your property in joint names.

Property held in joint names passes by operation of law to the joint owner(s). Types of joint ownership are: Joint tenancy, tenancy by the entirety, and tenancy in common. Each has its own charistics and consequences.

Joint tenancy – is property owned by two or more individuals. The owners' interest is not designated by a percentage. When one of the owners dies his/her interest in the property passes to the other joint owners.

Tenancy by the entirety – is a special type of property ownership exclusively by husband and wife. The law looks at the husband and wife as a single unit. Neither spouse may sell the property without the consent of the other. Upon the death of one spouse the property automatically becomes the property of the surviving spouse.

Tenancy in common – is property owned by two or more co-owners. Each owner has a specified percentage of the whole asset. The ownership passes at death of one of the owners as specified in the language of the title.

Many people place their property in joint names with one of their children as a part of an estate plan. One must remember that there are no guarantees that the child will carry out your wishes and divided the property, as you may direct, to the other children. Such a statement as, "I trust George to do the right thing and share the money with his sisters." may not be what actually happens. This is very likely to cause animosity between the siblings.

Placing property in the joint name of a second spouse may exclude the children of the first spouse for any ultimate ownership in the asset as the asset will pass the spouse. Hard earned assets may thus not ever pass to the children of the first spouse and may end up going to the second spouse's family.

Placing property in the joint name with minor grandchildren may cause the need for the appointment of a guardian for the minor grandchild. This is an expensive legal requirement as minor may not own property in their own name.

As with most any ownership status there are different tax consequences. There may be gift tax consequences. The property may become subject to the debts of other joint owners. Loss of the ability to claim all of the tax advantages if the property is subject to depreciation. One should always discuss the placing of assets in joint ownership with your tax advisor and lawyer.

Chapter 3

Dying Without A Will

The last chapter was about using jointly held property as a means of disposing of your property at your death. Some may not think of that as a means of estate planning but it is because it transfers your assets at your passing. Another estate plan is not having a will. Again this is not generally thought of as an estate plan but it is. This is because the state has a plan for the distribution of your assets. It is estate planning by default.

When you die without a will the law says, "you died intestate". In that case the Missouri law takes effect. Your property is divided according to the Missouri law of descent and distribution. Missouri Revised Statute section 474.010 says exactly how your assets will be divided.

The highlights of this section provide for the surviving spouse to receive the entire estate unless the deceased has surviving children, all of whom are also the children of the spouse. In that case the spouse will receive the first twenty thousand dollars plus one-half of the estate. The balance of the estate passes in equal shares to the children or their descendants.

If there are children who are not also the children of the surviving spouse the estate passes one-half to the spouse and the balance equally

to the children or their descendants. An example of this is the case of a second spouse, children of a previous marriage, or a child born out of wedlock.

If there is no spouse the entire estate passes to the children or their descendants in equal shares. If no children or their descendants, then to the father, mother, brother or sister, or their descendants, then to the grandfathers, grandmothers, uncles and aunts or their descendants in equal shares.

In the unlikely event that you have no heirs at law your entire estate will escheat (go) to the State of Missouri. Other parts of the statute cover various rare situations too numerous to discuss in this chapter.

Does being aware of what the state law will do, if you die without a will, make you feel comfortable? Does the state law divide your estate as want it to be divided at your death? If you are uncomfortable about the state dividing your property, according to the state's plan for distribution, you must take steps to provide for your concerns. At least you need a will and perhaps a trust to insure that your desires are carried out.

There are many other situations which may be covered by a will. A second marriage is a case where it is easy to see the necessity of a will to ensure that your estate passes as you wish. You, very likely, will want consider protecting your children and at the same time provide for you spouse. If you intend to leave assets to your minor (under age 18) children or grandchildren a testamentary trust may be appropriate as a means of requiring the assets be applied in a particular way such as for college education.

If you want to make a gift to your church or favorite charity it will be necessary for you to have a will. If you have a child with special needs it would be wise to have a will so that you could give that child more that the other children or have a trust to establish a fund which could be used to care for that child.

Generally speaking dying without a will is not a good idea. The probating of your estate will be more expensive. Just one example is that

the court will require the posting of a bond by the personal representative. The cost of a bond may be several hundred dollars. You may waive this requirement in your will. Doing so will result in saving the cost of a bond which may be more than the cost of the will.

Not having a will also means the Probate Court will ensure that the state law of descent and distribution is followed. Would you rather have the court protect your wishes or the requirement of the state law?

The drafting of a will is a legal situation, you will need to consult with your own lawyer and perhaps your financial and tax advisor before writing a will. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action.

Chapter 4

What Is A Will And Why Should You Have One

A will is an instrument in writing in which you as the maker state all of the directions for the handling of your estate. There are technical requirements that it be: in writing, dated, signed by you, and witnessed by at least two disinterested people who see you sign the will in their presence. The maker of the will is called the testator. As a testator you must be competent at the time you sign your will.

The main purpose of a will is for you to state exactly how you want to dispose of your estate. You will name the personal representative (P.R.). The function of the P.R. is to handle your estate. The first action he/she will take is to hire an attorney who will assist by insuring that all applicable laws are followed, provide instructions and assistance, and to handle all necessary action in the probate court. The P.R. will collect all

of your assets and file an inventory with the probate court. He will pay the court costs, and pay all of your bills and taxes if any. When the estate is ready to close the P.R. will prepare a final settlement [this will show all of the financial transactions in the estate] and a petition for distribution to divide the remaining assets according to your will. There are many other details but I have outlined the major tasks.

Naming the P.R. is a very important decision. The P.R. must be knowledgeable, responsible, fair, and impartial; have the time to take on the responsibilities of all the duties; have accounting or business experience; and be honest and trustworthy.

The enforcement of the terms of your will is done under the jurisdiction of the Probate Court. One function of the court is to protect the estate for the benefit of both the heirs and the creditors. The court may require that the P.R. post a bond to insure the proper handling of the estate. You as the testator may state whether that person must post a bond or whether that requirement will be waived. By waiving the bond you will save the cost of a bond which may be more than the cost of having the will drafted by your attorney. There may be various other detailed instructions. To insure a properly drafted will you should seek the assistance of your lawyer.

There are many situations which may make it especially important to have a will. A second marriage is a case where it is easy to see the necessity of a will to ensure that the estate passes as you wish. In your will you may consider protecting your children and at the same time provide for your spouse. If you intend to leave assets to your minor (under age 18) children or grandchildren a trust may be appropriate as a means of requiring the assets be applied in a particular way such as for college education.

If you want to make a gift to your church, favorite charity, a friend, or neighbor it will be necessary for you to make a specific bequest for them in your will. If you have a child with special needs it would be wise to have a will so that you might give that child more than the other children or to establish a fund which could be used to care for that child.

Many people mistakenly believe that having a will means that probate is unnecessary. That is just not true. The function of the Probate Court is to ensure that the terms of your will are carried out and that only happens when the will is presented to the court for probating. Not having a will also means the Probate Court will ensure that the state law of descent and distribution is followed. That law was discussed in the last chapter. Would you rather have the court protect your wishes as expressed in your will or enforce the requirement of the state law? Also, you may remember the first chapter in which jointly held property was discussed. If you have your property titled in such a way that it passes to a joint owner then that asset will not be a part of your probate estate and will not be covered by your will. A will is one of the most important estate planning tools. Everyone should have one.

Before writing a will, as with all legal situations, you will need to consult with your own lawyer, perhaps your financial advisor, and tax advisor. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 5

Should You Have A Living Trust?

Previous chapters I have discussed passing property by joint tenancy, by intestacy and by a will. Using a living trust is becoming more and more popular as individuals learn the benefits of having a trust. What is a trust?

There are several types of trusts. The most commonly used form is a revocable living trust. This is a legal document which establishes a plan

for the handling of your assets both during your lifetime and after your death. With the assistance of your lawyer, you will establish the method for the preservation of your assets, the handling of your needs in the event you become incapacitated, and distribution of your assets after your death. It is called a revocable trust because you may amend it as long as you retain the legal capacity to make a legal document.

The parties involved in a living trust are the maker, the trustee, successor trustee and the beneficiaries. As the individual establishing the trust you are the maker. The trustee and successor trustee are the individual, bank, or trust company named by you. The trustee's duty is to handle the administration of the trust. The beneficiaries are the individuals, churches or charities you want to receive the assets in your trust at your death. It is very important for you to consider who you name as the trustee and successor trustee.

Most frequently, in the beginning, you are your own trustee. You will name a successor trustee who will take over in the event you become incapacitated or upon your death. The naming of the successor trustee is also very important. You may name a child or a bank with trust powers or a trust company. It is important for you to know that whomever you name as successor trustee will have the experience to handle your affairs. The demands upon the trustee are challenging and time consuming. There are various legal requirements which must be followed. Think carefully before naming a successor trustee. Make sure that whomever you name has the time and ability to be a good trustee. The successor trustee will take over if you become incapacitated and/or after you pass away. Because of this you may want to consider naming a professional, a bank with trust powers, or a trust company.

Next you will need to consider who you want as beneficiaries of your trust. Much like a will, you will name those who will receive your assets after your death. Your spouse and children are generally your first consideration. However, you may want to name your church or favorite charity as a beneficiary. You may have special situations which may make the establishment of a trust within your trust, such as providing for the benefit of your spouse or child with special needs, with the remainder to pass to your children after the death of the initial beneficiary.

There are many other situations which may make it especially important to have a trust. A second marriage is a case where it is easy to see the necessity of a trust to ensure that the estate passes as you wish. In your trust you may consider protecting your children and at the same time provide for your spouse. If you intend to leave assets to your minor (under age 18) children or grandchildren a trust may be appropriate as a means of requiring the assets be applied in a particular way such as for college education. If you have a child with special needs it would be wise to have a trust to establish a fund which could be used to care for that child.

A trust is a legal entity which has an existence beyond that of you, the maker, as an individual. It continues to exist even after your death. Because of this it is not necessary to probate any asset in the trust. If the maker becomes incapacitated the successor trustee will take over making it unnecessary to have a guardian and conservator appointed by the probate court. This makes the handling of your trust very private. There is no public record.

Once you establish your trust you must fund it. That means that you must transfer your assets into the trust. One very common mistake I see many people make is that they go to the lawyer to draft the trust, sign the trust and do nothing else. Unless you, as the maker, actually transfer the legal title of your assets to the trust – your assets will not be in the trust. It is much like renting a safe deposit box at the bank and then never putting anything in it. If your assets are not in the trust then they will have to be probated and you have not received the benefit of all the time, energy and expense of establishing the trust.

There are many advantages of a trust. If properly drafted a trust may allow you to reduce or completely avoid estate taxes. This is a major reason to establish a trust. Before doing so, discuss the matter with your lawyer and tax advisor as only they can advise you of the appropriate type of trust to provide you with the maximum benefits. A trust may also save a substantial amount in the costs of administration. Trustee's fees will very likely be lower than personal representative's fees and there will be no probate court costs. Your personal information will remain private and will not become a public record. A trust is a very helpful

estate planning tool.

The establishment of a trust involves many legal issues plus complex tax rules and regulations. As with all legal situations, you will need to consult with your own lawyer, your financial advisor, and tax advisor before establishing a trust or writing a will. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 6

Perhaps An "A-B Trust" Is Made For You

This chapter covers a very special kind of trust to be established by a husband and wife. This is commonly called an "A – B trust". Using this type of trust allows both spouses to take advantage of the applicable federal estate tax credit. Therefore, you may pass up to twice the applicable federal estate tax exemption without having to pay any federal estate taxes.

How does such an A – B trust work? Both the husband and wife establish a living trust. The trust is written so that the one trust becomes two separate trusts upon the death of the first spouse. The trust is divided into the A trust and the B trust. The A trust is called the surviving spouse's trust. The deceased spouse's trust is the B trust. At this point the one trust becomes two separate legal taxable entities. These trusts are funded by a special formula set out in the trust.

An amount equal to the applicable estate tax exemption is transferred into the B trust. The balance is then used to fund the A trust. The B trust

is subject to tax. However, because the total assets transferred into it are equal to or less than the applicable estate tax exemption so there is no tax.

The surviving spouse retains control of the A trust. He or she will receive the income from the B trust. If properly drafted the surviving spouse may also make withdrawals of principal from the B trust when necessary for health, education, support or maintenance. The practical effect is to give the surviving spouse the benefit of all of the assets in both trusts.

Upon the death of the second spouse the assets in the A trust may be subject to federal estate tax if the total exceeds the applicable estate tax credit. The assets in both trusts may now be distributed to the beneficiaries. The advantage of this type of trust is that it may reduce or avoid substantial federal estate taxes. It will make the distribution of your estate free from probate and will be private.

Because of its complexities you may want to consider naming a successor trustee who has special knowledge of such trust plans. A professional who is familiar with you and your assets is a possible choice. You may also want to consider a bank with trust powers or a trust company.

The establishment of an A – B trust involves many legal issues, complex tax rules and regulations which are frankly too complex for complete coverage in this chapter. As with all legal situations, you will need to consult with your own lawyer, your financial advisor, and tax advisor before establishing a trust or writing a will. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 7

Lots Of Assets - Consider An Irrevocable Trust

As its name implies, an irrevocable trust may not be amended, modified or revoked. You must give up control of all assets you transfer into the irrevocable trust. Why would you consider using such a trust? An irrevocable trust is used primarily to provide for potential tax savings. You may want to consider this as a type of trust if you are married and your assets total more than twice the applicable tax exemption. A single person may consider if his/her assets are more than the applicable tax exemption. There may be tax consequences at the time you establish an irrevocable trust. One advantage however is that future appreciation of the trust assets will not be included in your estate and therefore there will be no inheritance tax.

We all like the idea of estate tax reduction. None of us would rather pay tax and reduce the amount of our assets which will pass to our heirs. Also, many may not want to give up control of your assets by establishing an irrevocable trust. In these cases a life insurance trust may be a reasonable alternative.

A life insurance trust is commonly used to provide a source of ready cash to pay the federal estate tax that you cannot otherwise avoid. Based on your total assets, you and your accountant or lawyer may be able to estimate the tax burden which the federal and state governments will impose on the transfer of your estate at your death. Once that amount is determined you will purchase a life insurance policy with a death benefit equal to the estimated tax. You establish a trust which purchases the life insurance policy. Since the trust owns the life insurance policy it will not be included in your estate for tax purposes.

Federal estate taxes are due nine months after an individual dies.

Having a life insurance trust creates a ready source of funds to pay any necessary federal estate tax. You may also use the funds to pay other expenses such as funeral and medical expenses. This will make it unnecessary to sell some assets to raise the cash to pay the tax and expenses.

A married couple may consider using a "Last-Survivor" life insurance policy. This is one life insurance policy on two persons (husband & wife) with the policy paying benefits only after the death of the second to die. Such a policy may cost less than two separate policies.

Because of its complexities of any irrevocable trust you may want to consider naming a successor trustee that has special knowledge of such trust plans. A professional who is familiar with you and your assets is a possible choice. You may also want to consider a bank with trust powers or a trust company.

The establishment of an irrevocable trust and a life insurance trust involves many legal issues, complex tax rules and regulations which are frankly too complex for complete coverage in this chapter. The purchase of life insurance depends on various factors such as age, health, and amount of insurance purchased.

As with all legal situations, you will need to consult with your own lawyer, insurance agent, financial advisor, and tax advisor before establishing an irrevocable trust. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 8

So You Don't Have An Estate Plan!!!

What are the hazards of not having an estate plan? How does general chaos sound? Not only is the present state of the economy in turmoil but without an estate plan you will leave your family in a state of complete disorder and confusion.

Where will they go to find out what you want done when you die? Aside from funeral arrangements, which are not a part of my series, have you prepared a written plan giving directions to your children or family about how to handle the various events that will take place following your death? If you have not, I can guarantee you, you will be leaving many problems and hours of extra work for your family.

So what should you do? Even with only a few assets you must do something and the greater the value of your estate the more important it is for you to have a complete plan. A plan should, at a minimum, contain a will, a durable power of attorney and a health care power of attorney. More complicated plans will include in addition to all of the above a trust of some kind. (See chapters 5 and 6.)

If you do nothing your children must go through your home to prepare a complete list of your assets and liabilities. So you must compile a list of assets such as; insurance policies, deeds to your real estate, titles to your motor vehicles, your stock broker's name and your various accounts, bank accounts and safe deposit box. If you have debts you will also need a complete list including all credit card information. Also you need a complete list of all your household furniture and jewelry. Missouri law allows you to make a list of these assets (household furniture and jewelry) and state how you want to dispose of them by attaching the list to your will.

The list of assets should provide information about the cost of those assets and the date you acquired it so that a known cost value may be determined. This will help determine if there is any tax due. Your estate will receive a step up date of death value but knowing the cost is important if an asset must be sold during your lifetime. It may not be easy for you to prepare this information. But just think how difficult it will be for your family if they do not know where to find this important information about your affairs?

When I was in the probate court almost every day someone would come in to ask me what to do because their loved one had not left any instructions. Where was the will? What should they do? The confusion would usually lead to a dispute within the family about how to handle the problem. There is nothing worse than to see children fight over mom's property. Some families became divided in such ways that they end up never speaking to each other again and often suing each other.

When your children decide to sue each other they choose up sides. Lawyers are hired by all sides to represent their desired outcome. Sometimes there are even three sides and even more lawyers. Even the best lawyers can not promise a specific result. The lawyers charge a fee and generally all sides are unhappy in the end. I frequently saw cases where it was said that "only the lawyers" would come out ahead in the case.

In this and past chapters I have discussed various ways to safely dispose of your assets without disputes. Please select the method which best suits your situation, see your attorney and establish an estate plan. Nothing is more dangerous than doing nothing.

As with all legal situations, you will need to consult with your own lawyer, insurance agent, financial advisor, and tax advisor before establishing an estate plan. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 9

Special Needs Trusts

If you have a family member, such as a child with Down's Syndrome or a child who has a mental health or physical impairment which makes him unable to work, who is receiving some form of governmental benefits; then, you may want to establish a trust to care for that child after you pass away. There is a particular kind of trust which you may establish called a "Special Needs Trust." This type trust is unique because of its limited application. If properly established it will allow the beneficiary to maintain eligibility for the governmental benefits which is very important as everyone who has ever had to apply for the benefit knows.

Simply leaving a portion of your estate to the child will generally cause the child to become ineligible for the governmental benefits. The child will have to spend down the inheritance until the eligibility amount is reached. Then he must reapply for benefits. Thus beginning the qualification process all over again.

Usually the family is contributing to pay for extra "special needs" and they want to insure that those needs are met after they die. They also want to provide for them after their death without causing them to lose their various governmental benefits. This special needs trust will basically allow for this to continue with funds provided by the trust.

The family may establish the special needs trust and fund it with a specified amount. The trust is then used to provide for the beneficiary's needs for special things but not for usual support (such things as usual medical, shelter, food, etc). It is used to provide for things such as a special wheel chair, a TV, a lift chair, specially equipped van for necessary transportation, special braces, even unusual medical care.

Because the beneficiary is receiving governmental assistance it is important to insure that any expenditure will not cause the beneficiary to lose that assistance. Therefore, it is important to consider appointing a trustee with specific knowledge of the many complex requirements of both the governmental benefits eligibility and the special needs trust. Many times a family member is just not equipped to be a good trustee. Considering a bank or trust company is often best.

Also upon the death of the beneficiary the government will reclaim all the benefits it has paid to the beneficiary. If there is a balance it will be paid to the other residuary beneficiaries named in the trust document.

As with all legal situations, you will need to consult with your own lawyer, insurance agent, financial advisor, and tax advisor before establishing a trust and naming your trustee. I can not stress too much how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 10

Who Should Be Your Trustee?

I have written about various varieties of trusts in my previous chapters. Very little attention has been given to the very important responsibility of naming a trustee to handle your trust. Initially you are very likely to be the trustee. This is good because you know what you want to do and how it is to be done. However, when you are no longer able to care for yourself or after your death who will do it? Who will you name to be the successor trustee?

Do you want to name one of your children? How do they get along? Will they continue to get along if one of them handles the trust and does

something the other children do not understand or if he/she makes a decision with which the other children do not agree? Does your child know how to handle all financial requirements of the trust and all of the legal requirements? Naming a child is not always a good idea.

I have recently heard several horror stories. In one case a sibling is unhappy with the way in which the other sibling acted as trustee. The brother didn't do it the way she thought it should be done. In another case both sides had lawyers and yet there was distrust between the siblings and doubt about getting a rightful share of the trust. One child told me it had taken thirteen years to handle a trust and it was still open. I know of at least one trust where the trustee resigned because of friction between the children and family problems. Frequently the siblings do not get the required legal notices with all the appropriate information. There are alternatives to having family handle the family trust.

Trust companies and banks with trust powers are in the business of handling trusts. They have the knowledge and experience necessary to do it right. Both internal and governmental audits ensure that all funds are properly administered within every trust. Investment experience helps make certain of the best possible outcome for all beneficiaries. Considering today's financial situation it is even more important than ever to have a trustee with experience in handling your assets with sound fiscal responsibility.

Making sure that the actual terms of the trust are followed is very important. As the maker of a trust you have established a plan for the handling of your assets in the trust. A trust company or bank with a trust department is independent and unbiased in the handling of the trust. There is no reason for the trust company to favor one child over another child. This fairness and impartiality is the hallmark of a trust company's reputation.

Banks and trust companies do charge fees. They are required to publish a fee schedule. Therefore you will know in advance the cost of doing business with them. The beneficiaries will know the cost. Generally these costs are less than would be charged by a personal representative and lawyer handling your will in Probate Court.

Your child, when acting as trustee, may take a vacation. This may interrupt or delay the handling of the trust. Your child may not have the investment experience to know when to hold or sell a stock owned by the trust. As I said above, with today's investment turmoil it is even more important to have a trustee with the experience necessary to know how to handle your trust.

Making the decision of naming the successor trustee may be the most important decision you make when you establish your trust. Make it carefully.

As with all legal situations, you will need to consult with your own lawyer, insurance agent, financial advisor, and tax advisor before establishing a trust and naming your trustee. I can not stress enough how important it is to receive individual advice from your own professionals before taking any legal action to carry out your estate plan.

Chapter 11 Reverse Mortgages

In previous chapters I have written about various ways to distribute your property and how to establish trusts to handle your investments. Having covered those topics, I want to give you some information about a method of using one of your major assets to produce additional income which you may need to improve your standard of living. This is the reverse mortgage.

Unlike a loan with your home as collateral or the sale of your home, a reverse mortgage allows you to have cash from your home's equity without having to repay a loan or move because you sell your home. It

is the reverse of the initial purchase mortgage. When you purchased your home you had a purchase mortgage on which you made a monthly payment. With the reverse mortgage you get that money back in monthly payments.

How can this be possible? Like other loans you must qualify and sign a mortgage document. You do not have to move and you still own your home. Then the lending institution, the bank pays you the agreed upon amount. These payments may be in one lump sum, in regular monthly payments, you may request payments only as you need them, or a combination of these payments.

You remain the owner of your home. As with all home ownership you are required to maintain/make repairs, pay insurance and taxes, pay utilities and all the usual payments required by home ownership.

The amount of your cash payment will depend on a number of variables such as the value of your home, the equity you have in the home, your age, the cost charged by the lending institution and the interest rates. The older you are and the more your home is worth generally means you will get more.

When you obtain a reverse mortgage the lending institution will establish an amount you will be paid. If you chose a monthly payment you will receive that payment as long as you live in the home. If you die or move from the home, the balance paid to you plus interest will be due. Generally, the home is then sold and the lending institution is paid the amount due and a balance, if any, is paid to you or your heirs. The payments you receive will never be greater than the value of your home. If you live a very long time it may be possible that the payments and interest may be greater than the proceeds of the sale of the home. However, the bank can not legally require you or your heirs to pay off this excess payment. This is because the bank has agreed to pay you an amount based on a formula which includes figures such as the value of your home, your age, interest rates and a mortality table and you have simply out lived the formula. The bank is stuck with its agreement and you will own nothing.

The lending institution or bank will charge you various fees. It is important for you to ask what you will be charged and to ask questions until you completely understand all of the charges. It is possible to "shop around" to find the best rate.

One drawback from a reverse mortgage is that the amount you receive will be included in your income and liquid assets limits. Therefore you may not qualify or lose public benefits because of a reverse mortgage if you receive more than you actually need.

Due to the limited information in this booklet, it is necessary for you to consult with your own financial advisor, tax accountant, lawyer and family before entering into a reverse mortgage as a reverse mortgage is a legal agreement, just like you should do before making any legal contract. A very good source for further detailed information is a booklet from AARP entitled "Home Made Money: A consumer's Guide to Reverse Mortgages" it is available on line at www.aarp.org/revmort or by calling 1-800-209-8085.

Chapter 12 Life Insurance - A Part Of All Good Estate Plans

When an individual begins planning to build an estate he or she should consider using life insurance as a part of that plan. In the early stages of building an estate, insurance may be the major factor. As one matures and becomes more financially stable different types of life insurance may be considered.

Let's look at the various types of life insurance. There are term policies, whole life policies and annuities. Each has a place in an estate plan. The place may depend on where you are in the life cycle.

Term life insurance provides a certain amount of coverage for a set term. This type policy is best for a younger person with a family and a debt such as a home mortgage. With this type policy a large amount of coverage may be obtained for a relatively low premium. As an example, you have a home mortgage of $125,000.00 and an annual income of $55,000.00. Such an individual may want to assure that his family can keep the family home and live for several years off the insurance proceeds. This person may purchase a three to five hundred thousand term life insurance policy which would pay off the mortgage and allow the family to live for three to five years without the surviving spouse working outside the home.

With term life insurance the insurance company sets a premium which is paid for a certain term. As long as the premium is paid the policy remains in force. If the premium is not paid the policy lapses and there is no insurance. By its very nature, the term policy is intended to be used for a limited time. The length depends on the needs of the insured. Once the mortgage is paid and other assets have been accumulated term insurance may no longer be the best type policy. It may be time to shift to another form of life insurance.

Whole life insurance is helpful for long term planning. With this type of insurance a certain amount of coverage is purchased and a premium is set which must be paid for the rest of the insured's life. One of the benefits of whole life (which is not available in a term life policy) is that the policy earns a cash surrender value. After several years the policy builds a sum (cash surrender value) which may be used to make a loan against the policy. If a loan is made the face amount of the policy is reduced by the amount of the loan. Therefore, at death of the policy holder the insurance company will pay the difference between the face amount of the policy and the amount of the loan to the beneficiary. One may also terminate the policy and take the cash surrender value in cash.

The proceeds of the whole life policies are frequently used: to pay funeral expenses; to invest for additional income to the surviving spouse; as a means to pass some immediate cash for inheritance tax; costs of administration of a probate estate; and for lump sum payments to children and/or grandchildren.

An annuity is a policy which pays the insured a certain amount, usually monthly, for the remainder of the insured's life. This is a great retirement tool. There are various types of annuities. A common type requires that you pay a monthly premium until a certain date at which you begin to draw the agreed amount for the rest of your life. A lump sum policy is purchased by the payment of a set sum in return for the guaranteed monthly payment. It is often possible to convert a whole life policy into an annuity. The payments from the annuity may be used to supplement other retirement income.

This chapter covers only the very basic insurance concepts. It is very important that you contact your own insurance agent, financial advisor, tax accountant, lawyer and members of your family for assistance with your estate plan.

Chapter 13

Can I Give My Money Away & Still Get State Nursing Home Benefits?

I have done research which is the basis of this chapter. However, the short answer is call the Family Support Division. The phone number for Franklin County 636-583-2571. Ask for an Eligibility Specialist.

The general tone of the questions I have been asked is, "How do I give away my assets so I don't have to pay for my nursing facility care?" Usually there is the family home, a car, and some savings. The individual's or couple's assets are modest and there is not enough income to pay for their nursing home care. They want to give all their assets to the children. There are a number of problems with this idea. First, doing so may disqualify you from receiving benefits. Second, once you give it away you have lost control of your assets. Third, are you sure your children will help you once they have your assets?

One of the questions on the application for benefits is, "Has anyone in your home sold or given away any money, vehicles, property, or any other resources within the last five years?" This is the state's "look back rule". If you must answer this question "yes" then you may not qualify for benefits. So, giving away your property may not work unless you have the foresight and ability to predict the future. How will you foresee when you will need the assistance?

Giving away your property, if by gift, means you will lose complete control of the property. I know, you may think your children will always help you. But are you sure? What if one of the children is involved in a divorce and the spouse gets some of your property as a part of the divorce settlement? Perhaps that child will no longer be able to help you. What if the child has an accident and a judgment is entered against him/her? Your property may be taken to collect the judgment.

You very likely believe your children will always take care of you. But will they? What will they do with the assets you give them? Do they have the necessary medical training to care for you? Will you have to go live with your child and your in-law? How will you get along? How can you be sure your plan will be carried out by your children? There are just so many questions you must ask.

If you have to apply for benefits the type of benefit you apply for will depend on your specific need. The requirements are very technical and much too detailed to discuss in this brief article. I hope to simply bring some of the highlights to your attention and provide enough information so you may have a head start when contacting the Family Support Division.

There are two nursing care programs. The first is the Supplemental Nursing Care which provides for a monthly cash payment. The payment varies between $156.00 and $390.00* depending on type of service and patient's need. The second is the MO HealthNet Vendor program. Here the benefit is paid directly to the nursing facility. With this plan a resident must use all available income (except $30.00 per month for personal needs) to pay for care.

To be eligible for Supplemental Nursing Care (cash benefit) a person must be 21 or older, have a determined need for a specific level of care in a nursing facility and meet eligibility requirements. The MO Health-Net Vendor program pays directly to the nursing facility. Vendor payments are available to those who are certified for care in a nursing facility or mental health hospital. One must have been screened before entry into a MO HealthNet-certified nursing facility. You must be 65 or older for a state mental health hospital. You may not have given away, sold or transferred property (real or personal) within five years for less than fair market value or without valuable consideration. And finally, you must meet all other eligibility requirements

There are special provisions for married couples when only one enters a nursing facility. This allows a portion of the couple's assets be set aside to the spouse who remains at home. There are also spenddown provisions which may apply. These refer to the amount of medical expenses that are a person's own responsibility, similar to an insurance deductible. Generally this requires spending any amount above the eligible income limit. The spenddown amount must be met before eligibility is established. The Eligibility Specialists will assist an applicant in determining the amount. A plan may be established to spenddown your assets until the eligibility requirements are met.

If one desires to be considered for benefits he/she must complete the four page "Medicaid Application/Eligibility Statement". This form asks many of the usual questions such as name, reason for applying, name of nursing facility and military service. Employment and income sources are major parts as well as insurance coverage. Asset questions deal with cash and securities, personal property, vehicles and real estate. A major concern is the transfer of property and resources as mentioned above.

I would advise gathering the necessary information before going to visit the Family Support Division. The form is available on the Family Support Division web site. I would suggest that you get a copy of it before going to the Family Support Division. Try your best to complete as much of the form as you can. That will be very helpful to the Eligibility Specialists. However, don't fret if you are not able to do this as the Eligibility Specialists are trained to assist you.

For additional, specific information, go to the Family Support Division web site www.dss.mo.gov. When you reach the home page click on the Health Care button and then under that listing go down to the listing on Medical Assistance for Elderly, Blind & Disabled. A second area is listed for Nursing Care. Both areas provide much more detailed information than in this article. You must go the to the Family Support Division in person to apply for benefits at which time a Eligibility Specialist will assist you and answer all your questions. The information in this article is minimal and may not fit your specific needs. You should depend on the Eligibility Specialist for the final word.

**These amounts are subject to change*.

Chapter 14

Planning For The "Golden Years"

may require more gold than you think

The previous chapter was about receiving state benefits to assist in the cost of nursing facility care. In the chapter we will discuss the alternative arrangements which may be made to assist if you do not qualify for state benefits. Short of paying your own costs or having your children pay there is nursing home insurance.

It might be good to look at the type of care available before examining the costs. There are three basic skill levels; each is based on a particular level of need. The lowest level of care is in a Residential Care Facility. The intermediate level is in an Assisted Living Facility and those who need the highest level of care will reside in a Skilled Nursing Facility. The state licenses each category and has regulations to govern each facility. In Franklin County there are eight Skilled Nursing Facilities, five Assisted Living Facilities and five Residential Care Facilities. We are fortunate to have such a large number from which to choose.

The services provided by a Residential Care Facility are limited to shelter, board and protective oversight. Medications may be administered but the individual must be able to exit the facility without assistance in case of an emergency. Assisted Living Facilities provide slightly more care as they will assist with daily activities such as eating, dressing, bathing, toileting, transferring and walking. Meds will be supervised and the individual may need minimal assistance in safe evacuation. Skilled Nursing Facilities provide all of the former services plus skilled nursing care by a registered nurse. They also provide observation, care, counseling, administration of meds and treatments as prescribed by a doctor.

Selecting the right nursing facility is not easy. There is a new rating system which was established by the Health & Human Services Department. It gives a number of stars, like the famous star rating system for restaurants. Five stars is the highest ranking it indicates much above average. The lowest is one star for much below average. If you want to check the rating of a particular nursing facility go to Medicare.gov/NHCom-pare/home.asp and click on the "Nursing Home to Compare" button. Then select state and county to see the ratings.

I contacted almost all of the nursing facilities in Franklin County to ask them about their costs. The costs naturally vary. There are semi-private rooms and private rooms. The cost range is as follows.

The range in a Skilled Nursing Facility is from a low of $111.00 per day for a semi-private room to $159.00 for a private room. The average is $124.00 for a semi-private and $137.75 for a private room. The average annual cost would be approximately $42,000.00 for a semi-private room and over $50,000.00 for a private room. These are staggering numbers, which most of us don't want to have to spend.*

The lowest cost for Assisted Living Facility was $85.00 for a semi-private room and the highest was $90.00. The average was $87.50 which amounts to almost $32,000.00 per year. A private room ranges is from $107.00 to $110.00. Thus the average is $108.50.*

Residential Care Facilities have lower costs because the necessary

care is less. The costs range from $42.00 for a semi-private room to $65.00 for a private room. The averages are $48.50 and $67.50 respectively. Even the lowest level of care is expensive. The annual averages are $17,700.00 for semi-private and $24,600.00 for the private room.

So, if you fail to qualify for state assistance, how do you pay for the cost of residential care? The first choice is simple, you pay for it. Have you saved enough? Most of us don't like that idea of spending our money for the nursing facility, so what are the alternatives? Nursing home insurance is one choice. There are various types of nursing home insurance which in the insurance industry is called "long term care insurance".

Long term care insurance, depending on the coverage, may pay for home care, assisted living, adult daycare, respite care, hospice care, nursing facilities and Alzheimer's facilities. Some policies may even pay for a visiting or live-in caregiver, companion, housekeeper, therapist or private duty nurse. Naturally the more coverage you have the larger the premium. Before purchasing a policy be sure you understand all the coverage and more importantly what is not covered.

There are two major types of long term care insurance, Tax qualified and non-tax qualified.

The tax qualified policy is the most common. It requires a person to need at least 90 days of care. There are other requirements, the person must: 1) be unable to perform two or more of the basic daily living activities (eating, dressing, bathing, transferring, toileting, and continence) without assistance, or 2) need substantial assistance because of severe cognitive impairment.

The non-tax qualified requires a medical necessity "trigger" by which a doctor certifies that the patient has a medical reason covered by the policy. Then the policy will pay the specified benefit for that service. As the name indicates this type policy is not tax exempt.

Premium rates are determined by several factors, these are; age, daily or monthly benefit, length benefits are paid, elimination period,

inflation protection and the individual's health. Some companies allow for a couple's discount. Premiums are payable monthly, quarterly, semi-annually or annually. The information in this article is merely to give you general information. For specifics and benefit details you must see your own insurance agent.

Another option is an annuity which is purchased from an insurance agent or financial planner. There are several types, monthly/annual premium payment or a lump sum payment is the most common. With the first type you make annual or monthly payment until a certain age at which time you are paid a guaranteed amount. With the second type you pay a lump sum after which you are guaranteed a monthly payment for the rest of your life. Both types the premium is based on insurance risk factors.

There are not many other options to pay for care for the elderly who can no longer care for themselves. From a planning standpoint it is very hard to know exactly what to do. You may simply plan to pay for the cost – save, save, save. If your income is large enough you can use the income to pay the cost. You may not save and if you have almost no assets the state will pay for you. You may purchase long term care insurance or an annuity. You could consider a reverse mortgage which was discussed in chapter 11. No matter what you do, it is very unlikely that you will have enough "gold" to pay for your care in the "Golden Years".

As with all financial concerns you will need to check with your own financial advisor, your accountant, your tax preparer, your insurance agent and your family before taking any action.

**Note:* *These amounts are subject to change*.

Chapter 15 The Ten Most Common Estate Planning Mistakes

I recently attended the MOKAN Trust Conference during which one of the speakers, Steve Goldman talked about the ten most common estate planning mistakes. These are his titles with my own comments. A lot of the mistakes are just plain common sense while others are cracks in the pavement into which you are likely to trip before you even notice the problem.

1. Improper or Poor Titling of Financial Assets

Based on my experience, the failure to specifically title assets is the most frequent reason for litigation. This happens when jointly held property does not clearly state your exact intentions. If you want joint ownership in the present tense then you must state all names as joint owners. If you expect the future transfer upon your death then you must use the "transfer on death" language. Choices are: a) your name followed by other names and ending "with right of survivorship"; b) your name followed by "transfer on death" to whomever you name; or, c) your name followed by "pay on death" to the person or persons you name.

You must be clear when the asset is obtained or when you decide to place other names on it to make sure the agent, banker, broker, title company, etc. understands just what you want done. If you do not properly title the asset a court of law may make a determination of ownership you did not intend.

2. Failure to Execute or Appropriately Draft Powers of Attorney

It is important to have someone to assist in the situation when you can no longer care for yourself and/or your assets. A Power of Attorney is an appropriate document for this purpose. There are many things that can be done by the person to whom you give the "power of attorney".

However, unless the document specifically provides a certain power it may not be done. One frequently omitted power is the power to make gifts. Do you usually make weekly contributions to your church? Would you like for them to continue? Do you make Christmas gifts to family members? Is this a pattern you want to continue? Is there some limit on those to whom you would want to make gifts? For example would you want the person holding the power of attorney to be able to make a gift to himself or his children?

Gifting is a powerful opportunity to dispose of property in an effort to reduce estate taxes. It is also very important to know that you can trust the person holding the power of attorney. Just reading the document may not be enough. You must make sure it says all of the things you want and that it does not make provisions which you do not understand.

3. Failing to Use a Revocable Life Insurance Trust

Owning a life insurance policy is often a very good estate planning tool. Generally one names his or her spouse as primary beneficiary and children as secondary beneficiaries. Are you concerned about protecting the proceeds? If you named a revocable life insurance trust as the beneficiary the asset would be protected from the creditors of your spouse or children. You could specifically require the funds be used for the college education of your children. You can provide for your spouse to have the income during his/her life and then to your children. If the policy proceeds are paid directly to your spouse and he/she remarries the proceeds may end up with the family of the new spouse and not your children. If not properly placed in a trust it is very likely that the insurance proceeds (possibly the biggest asset to be available at your death) may end up in the hands of someone you never intended.

4. Lack of Attention to or Out-Dated Beneficiary Designations

You're IRA, 401K, retirement plan or life insurance policy will have a designated beneficiary. Are you sure that the person you named is the one you want to get the property if you died yesterday? Many times a person divorces and forgets to change these beneficiary designations. Is someone named a beneficiary who is no longer living? Just make sure the beneficiary is current.

5. Failure to Use Testamentary Trusts

Unless you are certain that a beneficiary named in your will has the ability to properly preserve the assets you leave him/her, it may be advisable to establish a trust. That will prevent the assets from becoming the target of creditors. By the use of a testamentary trust you may name the trustee and specify the way the assets are to be handled. This will prevent the beneficiary from squandering the property.

6. Failure to Adopt an Active Gift Strategy

It may be very important, especially if Federal Estate Taxes are a concern, to establish an annual giving pattern. Giving up to the annual exclusion limit will at least reduce your estate and perhaps eliminate inheritance taxes. As mentioned in number 2 above, make sure you have the power to make gifts in your Power of Attorney.

7. Failure to Give a Copy of Living Will to All Interested Parties

I am sure you know about living wills. It seems we have all been encouraged to sign one. But have you given copies of your Living Will to the people who need to know your desires? We all know to give copy to the person we have designated to have the power to make the decision we can no longer make. But you should also give copies to your spouse, children, doctor, lawyer, minister/priest/rabbi, maybe even your next door neighbor. I have been told that at least one state has passed a law requiring people to put a copy on their refrigerator. That may go a little far but make sure copies are in the hands of everyone you think might need a copy.

8. Failing to Consider Other Family Resources

Most of us want to give our assets to our children once there is no surviving spouse. Have you every considered that your children, who have spouses, may also inherit property from their spouse's side of the family. In such cases it is possible to double the child's assets and create a tax problem for him/her which you have not considered. Simply giving the assets to this child may not be wise. Perhaps a trust would be better as the assets would never be a part of the child's estate for tax purposes. This is a case where discussing the situation with your child is advisable.

9. Omitted or Poorly Conceived Charitable Transfers

Have you thought about naming your church or favorite charity as a beneficiary of your estate? Obviously, giving during your lifetime is an option with which we are all familiar. However, giving by will or trust is not so apparent. There are a number of relatively new planning techniques which are too detailed to describe in the article. You may want to ask your lawyer about charitable remainder trusts or charitable unit trusts.

10. Use of Incentive Trusts and Other Restrictions

There are some who believe that they should make some requirement on a bequest as an incentive to make a beneficiary of your trust do a certain thing. You may want your child to complete college and therefore make that a requirement to receive the bequest. You may be concerned that because of the bequest your child will "want to live off the income and not work". As an incentive, you may require he/she earn a certain amount before he/she can receive the income. There are all kinds of incentive ideas. Just be careful to insure that if the requirement is not met that there is some alternative.

As with all financial concerns you will need to check with your own financial advisor, accountant, tax preparer, insurance agent, lawyer and your family before taking any action. All legal action has some consequence. Make sure you understand them.

Chapter 16

How The Frugal Spend

By those who know me, I have a reputation as parsimonious-- that's tighter than frugal. I have always applied the adage "It's not what you spend that counts--it's what you save." With today's economy it is more important than ever to spend wisely.

In previous chapters I have mentioned that budgeting is important as a means to control spending. If you spend it you can't save it. Saving must become your first priority. As I have said before, you can't accumulate an estate without a plan and part of that plan must be a budget calculated to reduce your spending. However, we must all make necessary purchases; so, how do we save while spending?

We must think of ways to spend less or better yet to delay spending. There are times when stores conduct annual sales. January often features carpet and home furnishing items. After Christmas sales are great. Buy cards and items you can use next Christmas. Air conditioners are a good bargain in February along with white sales (linens, sheets & towels). March has winter clothes on sale at a time when you can still use them. May, will feature outdoor furniture, TV's and appliances on sale. July is a good time to buy summer clothes, mattresses, washer & dryers. August & September have Labor Day sales of many items. It's a great time to consider the purchase of a new car from the current year after the introduction of the new model. December is great for furniture, appliances and TV's.

Do you need the latest, best model? If you are looking for a computer, TV or other electronic equipment consider something short of the newest most expensive model. Do you really need the 1080p HDTV when the 720p will do? You can now get laptops in 2, 3 & 4 GB but do

you really need the biggest. Cameras now are up to 12 pixels. Unless you are a professional photographer something less will do. Yes, you want to get the product which will meet your needs but over kill will cost more and be of no real benefit to you. What good is an application which you will never use?

Going green is currently a "politically correct" term, in part, for what I have always called being frugal. I agree that it is good to save the environment and generally doing so also will save your bank account. Consider using the new fluorescent lights, turning off lights when not necessary, getting a programmable thermostat, run the dishwasher and dryer at night in the summer and don't use more water than necessary. Saving your money generally will also save the environment.

We all enjoy going out to eat. But it can be expensive. Eating at home will give you better food at less cost. Prepared cereal products are very expensive, consider oatmeal it's cheap. Save going out for special occasions and then always take a "carry home" to supply part of a meal for the next day.

New cars are nice but you pay a high price for the first several years of depreciation. Consider a "certified pre-owned" car with a manufactures warranty. Keep it well maintained and it will last a long time. If you keep the car long enough it won't be worth much but the annual cost will be really low.

Trendy clothes may look good this year but what about next year? Instead, buy traditional clothes (they will always be in style) in the off season. Quality is important – not price. Remember you pay for that "logo". Department stores have sales so often that you should almost never pay full price. Look for sales where they offer an additional 30% to 50% off items already on sale at a reduced price. Thrift shops are a great idea. You can often find an expensive item, for a very small price, if you are willing to spend the time looking.

Before making a big purchase it never hurts to ask whether some discount is possible. Try something like, "This isn't just exactly what I had

in mind but for the right price I would take it." You would be surprised, even in big department stores the clerks are sometimes authorized to give discounts when asked. Just try, it never hurts. If you don't ask the answer is always no.

Don't forget to use coupons. There are many sources for coupons. The weekend papers frequently have many manufacturers' coupons plus many store advertisements contain coupons. There are now many online sources for coupons. Significant savings are available with the use of coupons. Senior citizen discounts are also another means of savings. Always ask the merchant whether they give a discount to seniors.

We should all live within our means. We can only do that if we maintain a standard of living equal to our balance sheet. Then we won't look like the man in the commercial who shows us all his expensive possessions and then admits that he is in debt up to his eyeballs. You can be a frugal spender or a big spender. Which are you?

Chapter 17

IS YOUR NEST EGG BIG ENOUGH?

(CAN YOU AFFORD TO RETIRE?)

Everyone looks forward to retirement. At the same time, almost everyone who faces retirement is uncertain about whether they can afford to retire. One of the most frequent statements I hear now is, "Because of the downturn in the economy I will have to work a few more years than I planned." How much have you set aside for retirement? Is it enough?

The goal of all of these chapters has been to enlighten the reader about estate planning. A natural part of that is planning for your retirement.

According to Brett Hammon in a July 30, 2009 article in *BusinessWeek* you will need 70% of your pre-retirement income for your post-working years. That means that if you have an annual household income of $50,000.00 you will need a retirement income of $35,000.00 to sustain you in retirement. How will you obtain that annual income?

There are a number of sources for your retirement income. They are: Social Security, IRA's, Annuities, 401k's, Pensions, and Self-Employment Retirement Plans. Naturally, you will want to consider the income from each source available to you. First contact the Social Security Administration to obtain an estimate of how much they will pay you at a given age beginning at age 62. You should be able to obtain information about all of the other options directly from the company in which that option is held.

Once you know the amounts to be paid by the various options, you will be able to determine how close you will come to the necessary income. The difference will have to come from your personal savings or a part-time job.

Hopefully you have planned well for your retirement. According to Bret Hammond, (in that same *BusinessWeek* article) you will need to start saving and investing early in life. Let's say you want to retire at age 65. He says that by age 35 you should have saved 2.1 times your annual salary to be on track. That by age 45 you should have reached 3.6 times income and at 55 you should have 5.4 times income. By age 65 you should have a staggering 7.7 times annual income. How close are you? Using an annual income of $50,000.00 requires that you have stashed away $385,000.00 by age 65.

If you have saved the $385,000.00 you could withdraw, assuming a 3% rate of return, $2,900 each month. This would last 13 years. This will get you to the average age span of 78 years. It may not be necessary for you to have not saved this entire amount. You can consider income from the other sources stated above. Let's say Social Security and your company's pension will supply you with half of the $2,900.00 then you will only need about $190,000.00 to pay you $1,450.00 per month, it will last the same 13 years.

These are staggering amounts of money. Do you have sufficient income to allow you to live with nearly the same standard of living you enjoyed during your working years? If you have been able to do this I congratulate you. If you have not, please advise your children so that they can enjoy the standard of living they want to continue to enjoy when they retire.

Chapter 18

Planning For Senior Housing

Are you thinking about changing your housing? Do you know what your choices are? Are you going to make plans for what may be an inevitable fact of life? There are alternatives to nursing homes or assisted living homes. Will you plan to make the change?

There are two types of us when it comes to changing our housing. One is the planner the other is the reactor. It should be apparent that you are better off if you are a planner. First you get to decide what you want to do. Second, economically you are generally ahead. Lets look at the difference.

Making the decision may be hard. It may not be necessary for sometime. But planning for a move is a decision you get to make. The alternative is to have someone make the change for you. It will not be your own decision. It may not be the decision you would have made and you may not like it. Emotionally it is always better to plan such an important event in your life.

Planning gives you the ability to control the process. Generally you have more choices. If you plan, you may move at your own pace. If you

chose to sell your home you will have the ability to wait for the right price. Even in today's depressed home market, you are better off being able to wait for the right buyer. Statistically you come out ahead.

Those who don't plan are generally forced by poor health, death of a spouse, or financial problems to react to the problem. Frequently, the decision is made for you by a child. It may not have been the decision you would have made if you had planned. In this case the sale of your home may be rushed. You may have to settle for the first price offered. Generally you will lose money because of the forced sale.

What types of change will you chose to make? You might chose: Senior housing, independent living home, senior apartment, nursing home. There are other options. Consider your needs and financial situation and make the best choice available.

The least change may be moving to a senior housing community. Generally these housing complexes are for people over 55. They may be small houses, condos, duplexes or apartments. In this type housing you will be completely independent. The advantage will be that you will not have to worry about mowing the lawn, snow removal, or outside upkeep. Some facilities may even offer meals, laundry, maid services, and transportation. However, you may be paying a monthly fee for these services. Make sure you know the cost and that it will fit within your budget.

The next lest restrictive living arrangement is a Residential Care Facility. The next step up is intermediate care in an Assisted Living Facility. The highest level of care is in a Skilled Nursing Facility. These living arrangements were discussed in chapter 14. Planning for these levels of care should involve you going to visit the facility, talking with the administrator, determining whether the cost will fit into your budget, and making sure the level of care offered is right for you.

Planning will allow you to stay in the community near family and friends. You will be able to stay more socially attached to your church and community organizations. This may be called "aging in place".

Chapter 19 It's November, Have You Done Your Tax Planning?

Now is the time to begin to plan ways to save on both on your 2009 income tax and on methods to save on estate taxes.

Several easy ways to save on your income taxes are as follows:

1. Charitable Contributions: If you are planning to make a charitable donation, do it now and make sure you get the appropriate receipt.
2. Sell Losing Investments: With the stock market down, you may have a losing investment. Sell it to claim a loss. You may qualify for up to $3,000.00.
3. Make a Contribution to Your IRA: Consider making an additional contribution to your IRA. (See you own tax advisor for details.)
4. Prepay Some Bills: You may want to prepay mortgage or predictable medical expenses such as eye glasses, hearing aids, etc.
5. Deduct for Job Search Expenses: If you have been unemployed or looking for a better job you can deduct the expense of the search. These expenses are for such things as travel, lodging, phone calls, resume preparation and career counseling.
6. Foreclosure Relief: Hopefully you have been able to maintain your home mortgage payments but if not then you are entitled to relief. If your loan was reduced, restructured or foreclosed you may qualify for relief.
7. New Home Credit: If you purchased your first home you will be eligible for a tax credit of as much as $7,500.00.

Estate planning is a little more difficult but just as important. Estate taxes are not exactly clear. The current law is set to expire at the beginning of 2011. No one knows just what congress will do.

Under the current law, the exemption for 2009 is $3.5 million. In 2010

there will be no federal estate tax. When the tax returns in 2011 the exemption will be $1 million. Will this be changed by congress? Now is the time to see your estate planner to make sure you are able to take advantage of whatever may happen.

There are several innovative ideas you may want to consider. Three of them are the Family Limited Partnership (FLP); the Grantor Retained Annuity Trust (GRAT), and the Grantor Trust (also known as the Intentionally Defective Grantor Trust). These are all very sophisticated investment techniques which require the assistance of your lawyer to properly draft and help you understand them. Here is a very brief description of them.

The Family Limited Partnership (FLP) is something like a family investment club. What happens is the family pools its assets (stocks, bonds, real estate, etc.) into a family-owned partnership. The individual interests are equal to the percentage of contribution by each member of the family. The advantages are that the family is able to take advantage of a larger account to obtain lower management fees and obtain better investment opportunities. Also the FLP cannot be reached by creditors or divorcing spouses. Interest in the FLP may be gifted to easily take advantage of the annual gift tax exemption.

The Grantor Retained Annuity Trust (GRAT) is great for minimizing the gift tax. The donor establishes a trust funded by cash or various other assets. He then is required to take an annual payment from the trust, the amount of which is engineered to return the donor's original investment plus a minimum rate of return. This rate is known as the "hurdle rate" which is set by the IRS. The August 2009 rate is only 3.4%. Any left over assets are then donated to the donor's children without gift tax. For an example of the actual benefit to you see your tax advisor or lawyer.

The final idea is a Grantor Trust (also known as the Intentionally Defective Grantor Trust). This trust is used by the donor to transfer assets to his beneficiaries. It is a better way to transfer money to your grandchildren and is a more effective way to shelter the gift. It also is great to avoid the generation-skipping tax. Again this plan requires special drafting by your lawyer.

Chapter 20

Burial - What Have You Done About It?

Most of us don't want to think about dying, let alone do any planning for what will happen to our bodies at death. Well, it is going to happen; so, do some planning! Do you know who will make plans for your funeral if you do nothing?

Let's look at the law which establishes who has the right to make funeral arrangements. Missouri statutes have a full chapter dealing with the disposition of your body at your death. It is Chapter 194 of the Missouri Revised Statutes. This law establishes a priority list, as follows:

1. The person named as power of attorney in a durable power of attorney. But only if that power is specifically granted;
2. Your surviving spouse;
3. Any of your children. This is subject to certain requirements for a minor child;
4. (a) any surviving parent;
   (b) if the deceased is a minor, a surviving parent who has custody;
   (c) if the deceased is a minor and the parents have joint custody then the parent whose residence is the child's residence for purposes of mailing and education.
5. Any surviving sibling;
6. The next nearest surviving relative;
7. Any person willing to assume financial responsibility for the funeral when no next of kin will assume such responsibility.
8. The county coroner or medical examiner.

The best thing for you to do is to make arrangements in advance with your funeral director. Also, contact your pastor, priest, rabbi, etc. to discuss your desires about a funeral service. That way you will know what will happen. You will also save members of your family from

wondering what you would have wanted. If you pay for the cost of the funeral in advance your family will not have to worry about making the arrangements or paying for your funeral.

Many times people want to put instructions in their will. This is generally not a good idea because the will may not be found in time to be considered. Remember, your will is not enforceable until admitted to probate and that will take too much time to have any effect on your funeral. Your family members should know what you want. This is especially true if you have not made arrangements with the funeral director.

Do you have a cemetery plot? Your church may have a cemetery. Many cities have cemeteries and there are various private cemeteries and many family cemeteries. There are also fraternal organizations which operate commentaries. You will want to make sure that the cemetery has an endowed care fund. This is commonly called perpetual care. Again, Missouri has a whole chapter (Chapter 214) regulating cemeteries. It is much too long to discuss. Suffice it to say, do your homework, buy a lot or plot and make sure the family or funeral director knows where it is.

So, how do you make the arrangements? Simply go to the funeral director, sit down, consider the various choices and make the plans. Go to your pastor, etc. and discuss what you want. This all sounds so very simple. However, if you do nothing no one will know what you want and there may be confusion.

Making plans is especially important if you are in a second marriage. It that case your children will not have the first priority because of the statute gives priority to the spouse before children. If you are single without children, you may want to consider naming a power of attorney to assist in making the arrangements. Just remember that the specific power to plan your funeral must be included in the document.

If you do nothing, as is so often the case, the state has a plan for you. The state's plan may not be what you want. Consider the statute outlined above. If you don't want it regulate who does your burial/funeral arrangements then you had better do some planning.

Chapter 21

Pre-Paid Burial Arrangements

In the previous article I discussed the priority established by the Missouri law for those who may plan your funeral. If you want to plan your own funeral, you should establish a pre-paid burial arrangement with your funeral director. Why is a pre-paid funeral arrangement a good idea? There are several reasons.

The most common reason for a pre-paid burial arrangement is to set aside funds for a funeral within the spend-down provisions of Medicaid qualification. As a person nears entry in a nursing home, he/she may want to qualify for Medicaid. To do so he/she may have only $999.00* in cash. Therefore, any cash above that amount must be spent-down. A good place for your funds may be an irrevocable pre-paid burial arrangement, thus eliminating the amount paid for the pre-paid funeral arrangement from available cash assets.

The other common reason for a pre-paid burial arrangement is simply planning to ensure your own desires are carried out. This is especially important if you are single without children. If so, who will make the plans for your funeral after you die? Remember, if you don't do the planning someone else will do it. It may be done by someone you do not want.

So, once you decide to make your own funeral arrangements the first thing you must do is go to your favorite funeral director. You will sit down with him/her and discuss your desires. Do you want a traditional funeral, to be cremated, or to donate your body to science? If you choose a traditional funeral there are many decisions you must make.

You will be asked to select a coffin, a burial vault, the times for

visitation, etc. In the "old days" you would purchase a casket at a given price and all services were included. This is no longer true. Funeral directors are required by federal law to provide you with an itemized list of their services. This list will be very detailed. The purpose of this is to allow you to know just what services are available together with the cost. You will choose only those services you want. You will want a coffin and vault. But there are items you may not need. For example you may want to provide a car for the pall bearers rather than to use one provided by the funeral home. Doing so will save the cost of that service. When you will select the services you want the funeral director will make them a part of the pre-paid burial contract.

You will get a contract stating all of the items you have selected and the services you want the funeral home to provide. All of those prices will be fixed, meaning they will be paid for no matter what prices may have changed to before you die. There are a number of factors over which the funeral home will have no control such as grave opening, obituaries, minister, organist, singer, sales tax, etc. these items may increase in cost. Therefore, the amount in the plan for those items will not be fixed and thus subject to change.

There are three ways to fund the contract: a Trust, a C/D or an Insurance policy. The Missouri statutes establish the various rules for this. You get to choose the type you want and you must be given a copy of the contract.

My information leads me to believe you may spend a minimum of $5,000.00 up to as much as $15,000.00 or more for a traditional funeral. The average is somewhere around $8,500.00. The three biggest items are the casket, vault and funeral home services. The costs for cremation or donations of your body to science are considerably less.

I want to say a special thank you to Bill White of Nieberg-Vitt Funeral Home for his help providing background information which was very useful in the preparation of this chapter.

*_These amounts are subject to change_.

Chapter 22

Are Your Estate Documents Up To Date?

In previous chapters I have discussed the various documents which will make up your estate plan. It is always good to review what you have and determine whether your estate planning documents are up to date. Your circumstances may have changed and the laws may have also changed. These changes could affect your older documents.

The documents you need to have a complete estate plan are a Will, a Trust, a Durable Power Of Attorney and a Health Care Directive. Not everyone needs a trust but it is something you should discuss with both your attorney and your investment advisor. What you need to do is sit down with each of your present documents, read them carefully, and decide whether you want to make any changes; and, if you do call your lawyer to make an appointment.

Just in case you don't have any of these documents, let's briefly look at what they are.

A **Will** is the first estate planning document. It is a written document, dated, and signed by you in the presence of two (2) disinterested witnesses. Its main function is to divide your property to those you name as your beneficiaries. To whom do you want to give your property? Have you thought about what might happen if those people are not living at the time of your death? You will need to name contingent beneficiaries. Examples of contingent beneficiaries may be grandchildren, your church, your favorite charity or a friend. You must make sure that as one beneficiary is not in the picture there is someone else to take your property. Who do you want to be the personal representative of your estate? Is that person still available? There are many other important details which you should take up with your lawyer.

A **Trust** is a very important estate planning document. With a trust there are many benefits not available with just a will. The two most common reasons for a trust are to avoid probate and maintain privacy. A trust is a legal document which has the effect of being a legal entity. It remains in effect after your death. Like a will you use a trust to divide your property after your death. If you already have a trust, you will want to make sure that the beneficiaries are up to date and that the total of your assets will be as free of estate tax as possible. Today, during the year 2010, there is no federal estate tax. However, this law is set to expire. Thus, congress must pass a new law. There is at present much concern about what congress may do to the federal estate tax laws. Therefore, you must contact your lawyer to determine whether your trust is up to date.

The **Durable Power of Attorney** is a document which will give someone else the power to make decisions about your property. It is durable in the since that it will remain in effect if you become incompetent. There are many variations of this document and this is why it is so important for you to contact your lawyer to make sure your power of attorney does what you want it to do.

The first three documents deal with your property. This last one will deal with your health care and general welfare. The Health Care Directive is a document which will describe what type of care you desire and designate who will make decisions for you when you are not able to make them for yourself. This document is sometimes called a living will. Generally a person names his or her spouse and then a child or children as the person or persons who will make medical decisions for you. Are your children near enough to make quick decisions in case of an emergency? Are your children informed that they have been designated to make decisions for you? They need to know and you must discuss with them just what heroic measure you want to be used to maintain your life.

If you do not have a **Health Care Directive**, you will need to see your lawyer to draft it for you. There are forms available on the internet, but I do not recommend you use them as they may not be specific enough for your needs.

A possible fifth estate planning tool is a **Pre-paid Burial Contract**. If

you don't have a plan then what will happen when you die? Refer back to Chapter 21.

Chapter 23 What Is New With Your Credit Card?

A new federal law relating to banks and credit cards became effective in July 2010. It may have some effect on you and the way you handle your credit cards.

The new bill revolutionized the credit card market by restricting when and how a credit card company can raise your individual interest rate, who can receive a card and how much time people are given to pay their bill.

The new law requires the banks to give you 45 days notice of any increase in interest rates or fees. If you have been paying off your card each month, which I highly recommend, you may be charged an annual fee by some companies. If this happens to you, just look for another credit card company.

Who may receive a new credit has changed. For example, the bill would require people under 21 to prove first that they can repay the money or that a parent or guardian is willing to pay off their debt if they default. Under the law, a customer would have to be more than 60 days behind on a payment before seeing a rate increase on an existing balance. Even then, the lender would be required to restore the previous, lower rate if the cardholder pays the minimum balance on time for six months.

Other highlights of the new law are:

• No more double cycle billing finance charges. Credit card issuers are

prohibited from calculating finance charges using this method which causes cardholders to pay interest on previously paid balances.

- No interest rate increases during the first 12 months of opening a credit card, unless the rate increase was disclosed when you first opened the credit card.
- Promotional rates must last at least 6 months. There can be no increase in rates until after six months.
- Payments above the minimum must be applied to highest-interest rate balances. If you have balances with different interest rates, the new rules require banks to allocate anything over the minimum payment to your highest interest rate balance. This reduces the amount of finance charges you pay on balances.
- No fees to make your credit card payment online, by mail, or over the phone, unless you make a last-minute payment over the phone and your bill is due the same day or next day.
- Payments are due on the same date each month.
- No over-the-limit fees unless you request (opt-in) the credit card issuer to process over-the-limit transactions. Otherwise, over-the-limit tran actions would be denied and you would not incur a fee.
- Billing statements must be sent 21 days before the due date, giving you more time to pay your credit card bill and reducing the risk of a late fee and interest rate penalty.
- Credit card issuers are required to simplify credit card disclosures. The use of tables and bold text will be used to emphasize key information on credit card disclosures. Credit card issuers will be required to di close the duration of penalty interest rates, simplify information about variable interest rates, and detail when grace periods do and do not apply.
- Billing statements must include the effects of making minimum only payments. The statement must include a sentence stating that paying on the minimum increases interest paid and balance pay off time.

All of these changes may actually have little effect on you if you have had a long standing relationship with your credit card company. However, if you apply for a new card they may become advantageous. Remember, whatever you do watch how you use your credit card—its so easy to over use the plastic money.

Chapter 24

What Do You Do With All Your Paper Records?

Do you have stacks and stacks or boxes and boxes of old records? Do you ever wonder why you have kept them? Most of us keep more than we need to, because we are afraid we might need it if we throw it away. So what do we really need to keep?

You should always keep original documents such as your will, trust, power of attorney, health care power of attorney, deed to your house, title to your car or truck, and life insurance policies.

In most cases you should not keep old wills, old trusts or other such documents which have been revoked by a similar new document. Old originals of these documents may cause trouble. If you have reduced a bequest to someone or to a charity keeping the old will may cause the beneficiary hard feelings. You may change your mind but there is no need to have the beneficiary wonder why. Only keep these documents if your lawyer tells you to.

You may not have the deed to your home. If you don't have it, don't worry. The Recorder of Deeds has a record of your deed and you can get a copy for a small fee. If you have a mortgage the bank may have the deed. They will surely give you a copy. When you have paid off the mortgage the bank will give you a deed of release and mark the note paid. You should keep these documents.

You should keep copies of your tax returns for at least ten years and perhaps forever. Always talk with your accountant, CPA or tax preparer before throwing tax information away. The IRS has three years to initiate an audit. Therefore, you don't need to keep all of the supporting

documents more than three years. It would be good to begin a practice of filing your tax returns in a convent place each year and then to go back to the three year old return and throw away all the supporting documents. You could also pitch the return that is eleven years old at the same time.

You have bank records, such as checking account, savings account, certificates of deposit, etc. There is no need to keep the original for more than three years. C D's should be kept for three years after maturity.

You should check your bank statement every month; if your records balance with the bank's records you are safe. Keep the statement for three years and then shred it. Here at the Bank of Sullivan we have electronic statements which will allow you to recover a bank statement going back one year and to retrieve checks as far back of four years. So once you balance your records with the bank's statement there is no need to keep the paper copy. Some suggest keeping a full year of checking account records to help with the preparation of your tax return. That is probably a good idea.

Things you may destroy monthly are: ATM receipt, credit card purchase receipts, utility bills, mutual fund or other investment reports if they are cumulative, pay stubs, etc. When your utility bill comes in check to see that you were given the proper credit for your previous month's payment, if so you don't need to keep all the old statements. The same is true of any type monthly statement which shows payment made the previous month. Rather than simply throwing these things in the trash, it would be a good idea to shred them.

If you have purchased a stock or bond it is important to keep the record of purchase. This documentation of the purchase is necessary to establish your cost basis for tax purposes. When the investment is sold you will have created a taxable event. It could be a gain or all too often a loss; but, without the purchase document you have no way to establish the record. Then those documents will become a part of your tax return.

Mortgage payments should be marked on your amortization schedule, by you, each time you make a payment. Then when you receive your 1099 from the bank you should check to see that you have been given you the appropriate credit for the interest you have paid. It is important that you be given the proper credit as the interest paid on your home loan is tax deductible. Keep the schedule until the mortgage is paid in full. I know it may be twenty or thirty year and it may get very raggedy but keep it.

You must have a record of all church and charitable contributions. We all tend to make various donations throughout the year. It would be good to have a place to keep the cancelled checks or cash receipts so you don't have to good through all you bank statements and other papers to find them when it is time to prepare your tax returns.

The most important thing is to know where the documents, which you have kept, may easily be located. If you have kept it and can't find it you have nothing. Start a record keeping system and stick to it.

Chapter 25

How To Prevent A Family Squabble When You Die

Times have gotten bad for a lot of people. The total value of your stock portfolio may have been greatly reduced. Even the income produced by FDIC insured certificates of deposit [which have a stable principal] has been drastically reduced. This may cause members of your family, who are already in trouble, to believe that contesting your estate plan may not do any harm. Perhaps they think it's the only thing to do. Perhaps your children may try to wrestle control of your assets from you alleging that at your age you can no longer manage effectively.

There are two general types of estate litigation. Validity of the docu-

ment is an initial action. While accounting or oversight issues by trustees and executors are usually commenced later. Whichever happens -- it won't be good.

Validity of a document, such as contesting a will or trust, is often begun for several reasons. Was the individual competent at the time the will or trust was executed? Was there someone who had undue influence over the individual which caused him to receive a greater share that he would have otherwise been entitled? Was the document in question properly witnessed? This type case will usually begin in the Probate Court at or near the death of the individual. Someone, such as a child or second spouse, will make allegations against an individual or some beneficiary. Such cases are the source of the common concern about "avoiding probate". Trusts are generally thought of as the way to avoid probate. While a trust will not go through probate, it still may be contested in court, if the proper grounds exist

Children may fight over accounting by your trustee or personal representative. They may allege that they have not been given the proper information. My experience clearly confirms that if the guardian, power of attorney, trustee or personal representative fails to adequately keep all the interested parties informed they begin to believe all sorts of things. Usually quarrels begin the process, followed by involving lawyers and then down right hatred among the family members. What once may have been a large estate may now be much smaller and those who are not involved almost always think the one handling the assets has something to hide.

Sometime, perhaps years after dad dies, one of the children will commence an action for accounting when that child believes the child acting as trustee is not managing the trust appropriately. Failure to properly inform the beneficiaries frequently causes an action in court for an accounting for his/her actions as trustee. Failure to communicate, especially after a request, is the major reason for this type of action. Children often suspect one another of improper conduct simply because they fail to know what is happening. One cure for this is to name a bank or trust company as the trustee.

The recent fluctuations in the stock market have affected both income and principal of many trusts. Yet many beneficiaries have expectations that they will continue to receive generous monthly payments which are no longer realistic. Not knowing why things have changed causes a beneficiary to suspect problems. Imaginations run wild and all at once fraud is alleged when the only problem is the failure to discuss the situation.

As we age some one may question our ability to conduct our own business with the same acumen we had when we were young. The stock market may not have been kind to us lately. We may not be living within our means because of health issues. This makes for concern among children about their inheritance. First, you must remember your children are not entitled to an inheritance. You have the right to do with your assets as you please. You may spend it all on yourself. Too bad there is nothing left for them. However, you must be consistent with the management of your affairs. A significant decline may justifiably cause a child to take over your affairs. Have you considered, in advance, who is best suited to do this?

If you are truly incapacitated, because of an illness or accident, the children may have reason for concern. However, if you properly planned by having a trust you should not have to worry. The trustee or successor trustee will take over. Properly handled, such a transfer will result in little or no effect on the overall estate plan.

What should you do to prevent this sort of problem? Proper planning is the best chance to have few, if any, problems. Here are two ideas.

1. ***Get a good lawyer.*** You should find a good estate planning lawyer. Many lawyers advertise they do "probate and estate planning" some even hold themselves out as experts in this area—are they really? Ask your friends who they have used. Ask your accountant, stock broker or insurance agent. You probably don't want to use the same lawyer used by other members of this family. This could cause a conflict of interest between a certain beneficiary and his lawyer, if that lawyer also represents you and/or your estate. This could make your plan more vulnerable to legal challenge.

2. ***Pick the right executor and trustees***. Anticipate family friction; make sure you don't appoint relatives to key positions if you know they can't get along. If you are worried about a dispute among the heirs or beneficiaries of a trust, it is usually better to appoint a professional fiduciary like a trust company or bank with trust authority. They will manage your affairs fairly without favoritism to anyone. They may be more knowledgeable in the various investment strategies, they know the many complex rules, they and will follow the letter of the law.

This chapter, as well as the entire book, is meant to raise questions in your mind. It is not to be taken as a solution to your specific situation. You should always contact your own attorney or other professional who knows your particular needs. All legal documents require drafting by an attorney knowledgeable in the area of your particular needs

Chapter 26 Home Improvements, Where To Best Spend Your Money

So you have a little extra money and you've been told your house needs some "up dating". Where will you best spend your money so you may recover more of the cost at the time you might sell your home? Since your home may be your largest asset (remember it is not an investment because it pays no income--only expenses) maintaining its value is very important. If you make improvements, how will you get the biggest bang for your bucks?

Several times over the years my wife has said to me that a room needs to be "up dated". Each time it has cost more than I thought (remember I am a tight wad) so I hope to get my money back if we sell the house. I have my doubts about all the "up dates" we have made. So, maybe I can give you some ideas to help you best spend your money. What are the best improvements?

Your first thought ought to be the neighborhood. How does your home compare to the others? There is an old saying, it is better to own the smallest home in a good neighborhood than the best one in a poor neighborhood. So look around—don't over build. For example don't add a fourth or fifth bedroom to your home if you live in a two or three bedroom neighborhood. If your yard/landscaping is not up to the neighborhood standard you may want to improve the curb appeal. After all, if you can't get the buyer into the house you will never sell it.

Statistics indicate that landscaping will give you a good return on your investment. Consider planting low-maintenance evergreens, perennials and native plants. After all, at our age who wants to have to work in the yard all the time? A nice bench in the back yard might produce a quiet place to rest, read, or contemplate life.

Building a deck or patio may be a good investment. You may recoup even more than you spend, if it is done right. Consider using the newer composite material, it will require less maintenance. Many new homes are now being built without decks because of the expense. So if you have a new deck, it may set your home apart and a step ahead of even a new home.

Up dating the front door will add value to your home. The front door should make a great first impression. The most expensive door will be a wooden door with glass panels. Next will be a fiberglass door and cheapest will be a steel door. So you will get more return on your money with the steel door. However, it should be of the same quality as other homes in the neighborhood. Look around to see what your neighbors have.

An up to date bathroom will be a good return on your investment. However, the expense of a new bathroom may be great. There are a number of areas to consider: plumbing, electric, cabinets, counter tops, fixtures (stool, tub, and sink) and flooring. When you consider purchasing these items make sure you retain the quality of your home. I have been told that a complete "up dating" of a bathroom may cost about $13,000.00 with a return of only around $10,000.00. If you are building a completely new room you will also have foundation, outside walls and

a roof. Redoing an existing bath is a better return on investment. If you are older, when remodeling the bath room, consider age appropriate fixtures. There are many new fixtures designed especially for the elderly.

Kitchen remodeling may be your best investment. Eat-in kitchens are important in today's market. Consider removing a wall between the kitchen and dining room. This will result in a good return on your money. Most of us don't use the dining room except at Christmas, Thanksgiving and Easter. So get rid of it. Here, like in the bathroom, you have a lot of things to consider.

A major kitchen remodel may cost up to $55,000.00. This includes all new appliances, cabinets with solid surface counter-tops, new flooring (perhaps hardwood), redone electrical, new lighting and walls if you have removed the old dining room wall. You must consider the time necessary for the work to be done. You could be without a kitchen for several months. You will have to purchase all new appliances. Here you have major quality factors to consider. Unless you are a gourmet cook, you will not need high-end appliances. Always consider EnergyStar appliances. Cabinets and counter-tops are another source of great expense.

A minor kitchen remodel may run you around $15,000.00 to $18,000.00. Deciding on quality of appliances and cabinets is major factor. Depending on your neighborhood, this may be a better return on your expense. I can't over emphasize the importance of retaining compatible with the other homes in the neighborhood.

In today's market, buyers expect your home to be in good, if not excellent, repair. So make all those repairs you have been putting off. You won't be able to hide needed repairs from an inspector hired by the purchaser—so do them now. Whenever you purchase something new for your home consider energy-efficient features. There are many new kitchen and laundry appliances which are EnergyStar rated. Also a new water heater or furnace will be much more energy-efficient that older models. You may not get a great return on these improvements but they may make your home sell faster.

New roofing, building a sunroom, or adding a home office may not be such a good investment. Every buyer will expect the roof to be in good condition, so replace it if needed. While a sunroom may be good for you, the return is not good as it may be seen as an inefficient use of the space. A home office, if it is a converted bedroom may work because it can always be reconverted to a bedroom. Generally any room with a specific or limited purpose may minimize its use by the next owner and thus not produce a good return on cost.

Always give the entire house a good cleaning. Don't forget the windows! This is one of the most overlooked areas of the home, but a big mistake when forgotten. Bright sunshine coming through the windows makes all the difference in the world. It may even make washing the windows worth all the effort.

This chapter, as well as the entire book, is meant to raise questions in your mind. It is not to be taken as a solution to your specific situation. Contact your own building contractor or an appraiser for an estimate of the cost of your planned project. You should always contact your own attorney to review any contract you may plan to sign before you sign it. Also consider contacting other professionals who knows your particular needs.

Chapter 27

Identity Theft

Maintaining your estate should be a part of your estate plan. With the decline in the stock market it is difficult at best. There are other areas where your assets may be attacked. What happens if someone steels your identity? Not only will it be a time consuming problem to resolve, it may destroy your financial independence for a long time. There are ways to prevent identity theft--but they are up to you to take the necessary action.

Identity theft is a major concern, hopefully not a problem you have encountered. There are many ways to prevent identity theft.

One of the best investments you can make is a good quality shredder. When you get mail with your name printed on any kind of form run it through the shredder. Never throw out, your old bank statements--shred them. Never give your social security number to anyone who calls on the phone. Never give information about your bank account to anyone who calls on the phone. You may want to use your credit card to make a purchase from a catalog, newspaper, or TV advertisement. That may be alright if you know the merchant with whom will be doing business. Keep in mind when you give out any information it may be used in ways you do not intend. So you must trust the merchant. Some even suggest that you should not place checks, used to pay bills, in your mailbox as thieves frequently steal mail, thereby obtaining information about your checking account. If you are concerned, take them to the Post Office.

Another way to protect your identity is to use an identity theft protection plan. There is any number of them available, such as TrustedID, IdentityGuard and LifeLock. They have fees varying from $8.50 to $15.00 per month. They offer a menu of services including, fraud monitoring, ID Theft insurance guarantee, monitoring the three credit bureau

reports, reporting activity in your bank account and credit card files, public records, social security, loan applications and internet/computer security. Before you get too excited about such a protection plan you should know that the Federal Trade Commission has published a brochure in which they say to be careful what you do. Because for the most part, they do not offer much more than you can do yourself for free

What do you do if you believe someone has stolen your identity? First call your bank, then your credit card companies. The police may be of some assistance. Then call one on the three the credit reporting companies: Experian - 1-888-397-3742 (TDD 1-800-972-0322) Equifax - 1-888-766-0008 (TDD 1-800-255-0056 and request connection to Auto Disclosure Line at 1-800-685-1111) Transunion - 1-800-680-7289 (TDD 1-877-553-7803).

The next place to call is your insurance agent. You may have some coverage within your homeowner’s policy. However, you may not have as much protection as you would like. Ask if you can get more coverage. Perhaps you may want to call before you have a problem as it may give you some direction and help.

The federal government has assigned identity theft to the Federal Trade Commission. They should be notified by calling 1-877-IDTHEFT. You will be asked to file a fraud affidavit. Be sure to do this as it may become the most important thing you do. Also be sure to ask for their booklet entitled “Take Charge: Fighting Back Against Identity Theft.

Don’t think it won’t happen to you. Do all you can to protect your estate. If you’re lucky identify theft won’t happen to you. If it does following the information in this article may be of help.

Chapter 28

Don't Become The Victim Of A Scam

As a senior citizen, we (I am one too) are the most frequent targets of any number of scams. In the previous chapter I discussed the most common type, Identity Theft. Unfortunately, there are hundreds of other scams to which seniors may fall prey.

As we age we may become less able to handle our own physical needs and financial affairs. Many a **good neighbor** may offer to come to our assistance. They may be very sincere and honest. Some others may also be looking for a reward. They may offer to take us to the doctor, grocery store, bank, etc. At first they may not seek any reward. Then it may be just a lunch. Later it becomes a request to reimburse for gas. Then gradually they seek payment. I know of several cases were the neighbor or friend has asked for and has been given a car in return for a promise to continue to take the senior citizen wherever they want forever. Then suddenly they just aren't available when needed. Watch for the creeping pressure to give a reward. A true friend will never ask for and may even decline that lunch you offer. It is best to have several friends to help so you never become dependent on just one person.

The **"grandparent scam"** is very common. It begins with a call from a young person who may start the conversation with, "Hi Grandpa; this is your favorite grandson." If you state a name like Bill then Bill continues by saying he is in some sort of trouble and needs money quickly. Bill will ask you to wire money to an account. If you do your money will be gone before you know it. Frankly, I find this common scam somewhat difficult to understand. First of all, wouldn't you recognize the voice of your favorite grandson? In any case never agree to wire any money to anyone, ever. If you get such a call say you will call the grandson's parent and you will never be bothered again.

Sweepstakes schemes are very popular. This will begin with either a call or letter. You will be advised that you have won a prize and that you need to send money for some reason like taxes or a handling fee. You will be asked to wire money. Just like above, you will never see a prize and will never be able to recover your money.

Bank/Credit card scams typically begin by the caller saying that there has been some unusual activity in your credit card account. They will then ask for your social security number and bank account number. No bank or credit card company will ever ask for this information over the phone. Never give your social security number to anyone over the phone. Just hang up.

If an investment advisor contacts you with an offer with a high rate of return and security you may be the target for an **investment scheme**. A catch phrase such as this offer is by "invitation only" or "one time only" should make you wary. You should never do business with an investment advisor that you have not personally met, know and trust. Remember Bernie Madoff. He ran the largest Ponzi scheme in history. While you may never get a call from Bernie, just remember if the offer is "too good to be true" it is something to which you want to just say no.

To avoid becoming a victim, just hang up on the "favorite grandson", say "no" to the questionable "investment advisor" and politely slam the door on the solicitors. Never give personal information over the phone or in answer to internet questions. Watch out for the "friendly neighbor" who may become too demanding. Just remember you own common sense. If it's too good to be true; then, it's not good for you. You can't get rich on a get rich scheme.

Chapter 29

Debt Can Ruin Your Retirement

In several of my articles I have mentioned that debt is something we should all avoid. A recent article by U. S. News brought this to my attention. It was said that debt is the number one obstacle to retirement. I couldn't agree more. You must do everything you know how to do to get out of debt.

The absolute worst debt is that of non-mortgage debt, such as credit card debt. There are three reasons why this type debt is so bad. First, having to make these payments reduces the amount you have available to save. Second, these payments are usually for items which only decrease in value. When you purchase a car or TV on credit you end up paying more than it is worth from day one. Further, unlike your house, it will never increase in value. Third, during retirement you need income. Well, because of these debts you have saved less, paid more, and must continue to make the payments. That's a triple-whammy. If at all possible you should pay off all credit cards and installment debts.

Debt will be an impediment to your happy retirement. What can you do to eliminate this problem? Here are some basis strategies.

Stop Borrowing: This is perhaps the most important and easiest to implement. All you have to do is STOP. When you make a purchase—pay for it. That doesn't mean you can't use your credit cards—it simply means you have to pay the full balance when the statement comes.

Save something every month: Obviously, the more the better. But you must save some money each month. Set that as a priority. The recommended amount is 10% of your income. If you set that amount aside every month it will add up very quickly. You should do this even if you

have debt. Some advocate paying debt before beginning to save. This is actually sound advise as paying off debt is the best way to save money. However, establishing a saving plan is also very important.

Budget: If you are spending more than your income, you must stop. If so, you must consider where you are spending and determine how you can cut back. Start by setting aside the amount you want to save and then begin to reduce your expenses. Do you need that pay channel on the cable TV? Must you have that new dress? Try cooking at home—much cheaper than eating out. Don't buy a new book—go to the library. You should try to reduce one or two of the areas where you spend too much. More than likely, you can't reduce every category of your budget. So you should reduce the ones that reflect the most unnecessary expenses. The most important budget factor is to stick with it.

Emergencies are a problem: We should all have an emergency fund. That way we will not have to borrow to cover that unexpected situation. What will you do if your car breaks down, if your refrigerator dies, or you get sick? How much you need will depend on your own circumstances. However, the old rule of thumb was to have three to six months income in an emergency fund.

Save for large expected purchases: We all know that certain things we have will need to be replaced. Your car is the best example. Begin a special account for the purchase. Owning a car is expensive. Having to make a monthly payment for the car limits your funds for other things. Based on the type of car you want and the frequency of your trading you should set aside a set amount each month. This will then become the resource to make the next purchase. Simply saving $300.00 per month (without interest) will equal $14,400.00 in four years. If you can earn 2% compounded monthly you would have slightly over $15,400.00. Isn't compounding wonderful—you earn $1,000.00 interest.

Remember debt is a four letter word. If you are in debt, that is not good. Get rid of it! There is no greater satisfaction than being debt free and retired.

Chapter 30

Why Do You Need A Trust

Almost every day someone asks me, "Why do I need a trust?" Like so many other questions, there is no short answer. Here are several of the more common reasons why you may need a trust. The following are not necessarily in any order of importance.

To avoid estate taxes:

Almost everyone with an estate of over one million should consider a trust simply to save taxes. We are not sure, at this point, what may happen with the tax code for 2011 except that the Bush tax cuts will disappear, putting us back to the one million mark. Anything above that will be taxed at the rate of 55%. The use of a trust has been a staple in the estate plan as a method of avoiding estate taxes. There are several types of trusts which may be useful. They are all too complex to discuss in this article. If tax planning is a concern—see your tax advisor and/or your attorney.

To keep out of probate:

It seems that avoiding probate is what everybody wants to do. Having a trust is the very best way to accomplish avoiding probate. When you establish a trust it is a legal entity which continues after you die. That is why probate is not necessary. You will not have to pay the expense of probate or wait until the estate may be opened before your trustee may take action. The trustee will be able to continue handling your assets on day one. The important thing to remember is to fund the trust. By this I mean that once you establish the trust you must transfer your assets into the trust. If you fail to do this your assets may still be subject to probate.

To handle your assets when you can't

While we never want to think about it, you may become disabled to the point that you may not be able to properly handle your own assets. Will you need help paying your bills? Perhaps you may want someone to help you make financial decisions. If so, you need a trust in which you have named a successor trustee who will take over. The successor trustee will immediately begin to make decisions about your assets, collect your income, and pay your bills.

To protect your children:

Many of us have concerns about our children's ability to care for money. They may not have the necessary experience. They may be spendthrifts. Perhaps the child's spouse is a concern. Some in-laws might pressure your child to spend his/her inheritance. In the case of a divorce an inheritance might become a marital asset subject to division by the divorce court. Would you want your property to end up in the hands of your ex-in-law? Properly worded a trust will protect your child, even from himself.

To care for your children with disabilities:

There are trusts for children with special needs. If your child has a disability then this may be just what you need. With this type trust, you establish a fund (the trust) which will be used to make available special items that are not provided by state benefits. Use of this type trust will not cause him to become ineligible for the state benefits. Thus ensuring continued benefits and special items at the same time.

Who should be your trustee?

Once you decide you want a trust you must consider who should be the trustee. It is common for you to be your own trustee. However, you will name a successor trustee. The successor trustee will take over after you are not able to serve as trustee. Special consideration should be given to naming that successor trustee. Do you want to name a child or perhaps a corporate trustee like a bank? There may be valid reasons not to name a child. A bank may have more experience and knowledge. A bank will be independent and not favor one child over another. Sibling rivalry often occurs when one child is handling the trust. This is never good. Naming a bank as trustee may solve many problems.

As with any legal document, the drafting of a trust should be done by your attorney. You should also consult with professionals such as: your tax advisor, CPA and financial advisor. Knowing all the facts about you, your family, and your assets is most important in the formulation of an estate plan. Don't be cheap, get a good lawyer and use the services of professionals to assist in your estate plan. You will get what you pay for.

Chapter 31

Should An Annuity Be A Part Of Your Retirement Plan?

Most of us are looking for ways to increase our retirement income. Finding a way to increase retirement income has become more difficult with the current very low interest rates on CD's and other such secure investments and especially in light of the volatility of the stock market. I have discussed reverse mortgages in Chapter No. 11 and life insurance in Chapter No. 12. While these are important I have yet to discuss an annuity.

What is an annuity?

An annuity is a contract between you and an insurance company. You pay the insurance company and they agree to pay you a guaranteed amount for the rest of your life. That is a very basic definition of an annuity. There are two basic types of annuities: 1) an immediate annuity and 2) a deferred annuity.

Deferred Annuity:

In the payment phase of a deferral annuity you make payments to the insurance company which the insurance company invests. Income is accumulated by the insurance company to increase the fund in your

annuity. There are two basic types, the fixed annuity and variable annuity. In a fixed annuity a predetermined interest rate is paid and a set amount of payment to you is guaranteed. In the variable annuity your payments are allocated to stocks and bonds and there is no guarantee other than the return of your total payments.

In the income phase the insurance company begins to pay you a benefit. This may be a lump sum or, more generally, a monthly payment for the rest of your life. There are variations from the standard basic plan. For one example, you may receive payments for your lifetime with a guarantee that if you die before a state period of time your beneficiary will receive a stated benefit. Some annuities will provide for both husband and wife so benefits will be received as long as one is living.

Immediate Annuity:

This is basically an insurance policy into which you make a lump sum payment in exchange for a guaranteed series of payments. There are two main types: 1) an annuity with a set period and 2) a life annuity.

The Annuity for a set period, just as its name implies, pays a set amount for a predetermined period of time. This is generally not the best type to use as a retirement tool. That's because you may out live the period and lose the income necessary to maintain your standard of living. We need to have a continuous source of income.

A life annuity will pay you for all of your life. It may be established to pay to both the husband and wife and only terminate on the death of the last to survive. This is a good tool for retirement. Some policies even provide an inflation factor which will increase payments based on the Consumer Price Index.

One of the advantages of this plan is that the original amount which you paid into the annuity is not taxed upon the return to you. You are however, taxed on any income/gains earned by the insurance company on your policy.

One concern is that you may die before the amount you have paid for

the policy is returned to you. Some policies allow for this concern by guaranteeing payments for a certain number of years. This is called a life-with-period-certain annuity. If you die before the designated period the remaining payments will be paid to a named beneficiary. Generally the periodic payment to you is reduced in this type annuity, so you must decide what your odds are and make the gamble.

This chapter is only meant to hit the highlights of annuities. There are many details and many variations for which there is not room in this chapter to explain. You should contact your insurance agent and/or investment advisor for planning the details of an annuity especially suited to your particular circumstances and needs.

Chapter 32

Dumb Things to Do With Your Assets

(Falling in love with an investment.)

The most important rule of investing is to diversify. No matter which stage in life you find yourself, you must keep your investments diversified. Early in life you are looking for growth. Later stability and finally you need income and stability. Ask your financial planner to help you at each stage. Falling in love with an investment is not like falling in love with your spouse. You should keep one but not the other.

I have investment advisers tell me all the time that their client has, "fallen in love with a stock and refuses to sell it." Many times the stock has been a great investment but now has failed to perform as in the past. Yet they want to keep it. Why? Usually the answer is some sentimental

reason. Emotion should not be a part of your investment psychology.

I've heard a number of stories. My dad gave me this stock as a graduation present and it has always gained in value. However, at the present time it is not paying a very good dividend. I had a great-uncle who purchased Sears & Roebuck stock during the depression. It split so many times that he got a big dividend check each quarter. For him it was a good investment. But would you purchase Sears today? You must ask yourself, "What, except for the sentimental attachment, is the reason you want to keep the stock?" You must have a good, sound investment answer.

How about stock of an employer? You got company stock through your employee compensation plan. At this point you have a large chunk of the company stock and you want to keep it. You should never have more than ten (10%) percent of your assets in one company stock. Just think of the Enron employees who had tens of thousands of dollars in the stock which turned out to be worthless. Your company stock may be a growth stock. At retirement you are more likely to need an income stock. Don't worry, selling the stock after retirement is not a sign of disloyalty to your old company. It may, however, be a requirement of a good diversified portfolio.

In today's money market it is very hard to find an investment that pays a good return. There are CD's at your bank which pay about one-half (.5 %) percent to one and one-quarter (1.25%) percent. They are very safe as they are FDIC insured. Good quality corporate bonds may pay you two (2%) percent to two and one-half (2.5%) percent for a long term investment. Can you do better? No doubt. But where do you go? Ask your financial advisor.

You may have a stock that has split a number of times and has doubled or tripled your initial investment. That is good; but, what is the return on the investments present value? As an example, let's say you purchased 100 shares of ABC Inc. stock for $75.00 per share. You had an initial investment of $7,500.00 and it paid an annual dividend of $225.00. That equals a three (3%) percent return. The stock has split several times and you now have 400 shares, the annual dividend is $450.00 giving you

a six (6%) percent return on your original investment. However, the market price of the stock has gone to $125.00 per share making your present investment equal $50,000. Now, the dividend, based on current market value, is only point nine (.9%) percent. Do you want to keep the stock? When you look at your investment from the point of view of current income to present value it may cause you to no longer be in love with this stock. You could get more on a CD. Selling this stock will create a capital gain. This will be a concern. Ask your tax advisor how much the sale will cost you in taxes.

When considering whether to keep a company stock, consider whether you would purchase that company stock today for the first time. If you wouldn't buy it now, why do you want to keep it? Does this company stock fit your present diversification plan? If not, you may want to find a stock that better fits your present needs.

When you are making an investment always consult a reliable financial planner. Investments in the stock market may be risky and past performance is no guarantee of future returns. There may be tax consequences because of the sale of a stock or any investment. Best to ask your tax advisor when you have a tax concern.

Chapter 33

Dumb Things to Do With Your Assets

(Chasing the Fantasy Investment)

We all want to find that one investment which will make a killing. How many times have you seen, "Past performance is not an indication of future returns"? Why do you think that is required? Well, simply because it is true. You may have reasonable expectations about the future but no one can predict the future with any degree of accuracy. If psychics where real they would all be rich. Sound investments are not made on locker room "hot tips". Hot tips may turn cold. There are risks to almost all investments. You should not make an investment until you have done your research and consulted your financial advisor. A sound investment plan is the best way to financial stability and a larger estate.

One common mistake is to get into a single class of investment. You must always be diversified. Think about the Tech Boom. It was followed by the Tech Bubble and then it burst. There was the Dot.com Bubble and the Housing Bubble. Gold has been on the rise for awhile now. Will it continue to go up? Are we about to see a Gold Bubble? Each area seemed, for a time, to be a great place to put your money. Many did. Statistics show that the average investor pours his money into "hot" investments just about the time they begin to turn cold. There is no way to guarantee any investment. Anyone who tells you he can guarantee an exceptionally high rate of return is lying to you.

It hasn't been long since Bernie Madoff was discovered to be a fraud. He had been operating the biggest Ponzi scheme in history. His early investors did very well. They got particularly high returns. They told their friends who also invested their hard earned assets with Bernie. The money from new investors was used to pay high dividends to early

investors. However, in the end everyone lost. Remember, “Past performance is not an indication of future returns.”

Not long ago I had a man come into the office with an opportunity to invest in commodities. This is an area of investing which is not for the faint of heart. It is not for someone who does not have the luxury of losing his investment. He didn’t know with whom he would be dealing. It was on the internet. I had to advise him that, to me, this did not seem to be a good thing for him to do. He said he had a limited amount and he was willing to gamble that it would make a bundle. He had his mind made up to do it. My advice was not taken. I can only hope he did well.

Many investments are called “opportunities” by the salesperson making a pitch to you. Generally the investment is something you must do today. Most likely the salesperson is someone you do not know. However, they are good sales people and sound so optimistic. You want to take advantage of this special “opportunity” and make a killing. Be wary of this, don’t fall for the pitch. Remember to do business with someone you know and trust. Also, remember, “Past performance is not an indication of future returns.”

One reality of sound investing is called compound interest. With a savings account, CD or stock, the reinvestment of the interest or dividends compounds the return and increases the value more over time, much more than simple interest. Here is an example.

Let’s say you purchase a hundred shares of ACB Inc. stock at $100.00 per share and it pays an annual dividend of $3.75 per share on a quarterly basis. You will receive a dividend of $93.75 the first quarter which will be reinvested in .9375 shares (assuming the price is still $100.00 per share) so you will then own 100.9375 shares which will pay a dividend of $94.62 for the second quarter, $95.6097 in the third quarter, and $96.5060 in the fourth quarter. At the end of the first year you have 103.8859 shares. You have almost four more share than when you started. If you take the dividend each quarter you would receive only $375.00 verses $380.48 by compounding the dividend. It only gets better year after year. It’s not magic, it is real growth. Try it, you’ll like it.

When you are making investments always consult a reliable financial planner. The information in this chapter is very general. Always remember, “Past performance is not an indication of future returns”. You have your own specific financial needs. Estate planning is an individual thing; one size does not fit all.

Chapter 34

Dumb Things to Do With Your Assets

SPENDING *(“On Sale” doesn’t mean “Good Deal”)*

Christmas is just around the corner. All the stores will be tempting you with holiday sales. Will you bite? Spending on an “On Sale” items is not always a good use of your assets. I have two rules when making a purchase: 1) Do I need it? and, 2) Is it a “good deal”? If I don’t need it—perhaps you are a lot like me, there isn’t much I really need at this point in my life—I won’t buy it no matter how little it may cost. What good is it to have something you don’t need and perhaps will never use? If you are buying a gift the same rules apply. Remember, you do not build your estate by spending. You build it by saving and making sound investments. Finally, just because it is “On Sale” doesn’t mean it is a “Good Deal”.

Let’s look at a specific example. You go to the store that has a 36inch HD TV for $425 marked down from $695.00. First, do you need a new TV? Then, is this price really a bargain? Was it ever worth the original price or for that matter is it worth the sale price? How new is the technology? Is it 720p versus 1080p? Is it a brand name that you know and trust? You must do research before you succumb to the temptation to buy it just because it is “On Sale”. Have you checked the product’s rating in Consumer Reports? Shop around, other stores may have something better for an even lower price.

When you purchase appliances remember that price is not the only object. Consider; quality, efficiency, and rating. Do you need the high tech washer with all the bells and whistles? Will a lower cost machine wash your clothes just as well? What is the annual operating cost? How has it been rated by Consumer Reports or other rating companies? Just because it is "On sale" doesn't mean you should buy it.

Clothes are a very hard item to evaluate. Different stores have different qualities. There are any number of low end stores, medium grade ones and high end stores. Your income may determine where you shop. A sale at one store may be better than a sale at another. Some stores have a sale every weekend. It would seem that you should never pay the regular price; because, it will be on sale if you wait until the weekend. Wherever you shop you should know the regular price for the item which you are interested in purchasing. Then you will know that if it is truly "On Sale". Some stores advertise discounts from department store prices. That may be true; but, are that store's items new (current season) merchandise or last year's items? There are even discount malls which allege deeply discounted prices for their merchandise all year round. Some of these stores have merchandise made especially for the discount mall store and may not be of the same quality found in the retail store. Do they truly have discounts? The long and short of it is you must know the value of the merchandise before you make a purchase. If you like it and need it, if it is a good price, good quality, and is a good value, then buy it.

Groceries are an interesting topic. Most stores place a stack of a certain item at the end of an isle. The intent is to make us think it is on sale. Take a minute and walk down the isle to see what the price is for similar items on the regular shelf. You might be surprised to find that there is a better price for a similar item on the shelf. Also, it is true; store brands are cheaper than name brands. You will have to do a taste test on your own to determine whether they measure up to the name brand's taste and quality. Discount grocery stores offer their own brands and less selection. They may be the best place to purchase items you know meet your standards.

Furniture, much like clothes, may be purchased at many quality

levels. Generally, the better quality furniture items tend to last longer. Consider the type of use the furniture will receive in your home. If it is going in the living room, where no one ever goes, the sturdiness of the item may not be as important as the style of the furniture. Family room furniture will generally get heavy use and high traffic. It will require better quality. Make sure the store salesperson knows the use to which you intend to subject the furniture. Then consider the reputation of the store. Quality is sometimes hard to see so you must ask questions. Wood furniture may be solid wood or particle board covered in veneer or even a plastic film. It will look nice but may not have much stability. Over stuffed chairs and sofas are very hard to evaluate just by looking. You must ask about what is inside. Is it hard wood? How will the fabric wear? Will the store guarantee the item and if so for how long? If you don't ask they won't tell you.

These are just ideas. Hopefully they are helpful and that you consider them when purchasing items which are "On Sale". Remember, you shouldn't buy it unless you need it and it is a "good deal".

Outlet malls are a major source of items tagged at discount prices. These malls are generally miles from your home and thus become shopping destinations. You should know the store and its products before knowing the benefit of the trip. Does this store have the same products as the same store in a regular shopping mall? Many times the stores in outlet malls have products made specifically for the outlet and thus not on par with items in their regular stores. You may get the psychological effect of a bargain. However, it may not be an item of equivalent quality.

Chapter 35

Dumb Things to Do With Your Assets

(Hanging On to Debt)

I know, I've written about debt before. Well, it is the downfall of so many of us that it deserves to be mentioned again. In this series I have discussed several bad ideas about handling your assets. Hanging on to debt is one of the worst investment decisions you can ever make. Reducing or eliminating your debt should be your most important goal. Once you have eliminated your debt you have the opportunity to begin to invest. Sound investing is the path to a sound estate plan. Even if you never intend to invest, without debt you have more money to use for every day expenses.

If you have any debt you must consider doing away with it. The one exception may be your home mortgage. Even here you should consider making an extra payment now and then to reduce the over all debt. Interest is the culprit in all debts. Consider refinancing to reduce the interest rate. In today's interest rate market you ought to be able to find a lower interest rate. In essence you are being charged to rent someone else's money. The worst debt is credit card debt. Interest charges may run as high as 14% - 23%. Get rid of it as quickly as possible.

The new credit card rules require the credit card companies to tell you how much you will pay if you only make the minimum monthly payment over three and five years. My most recent credit card bill had a balance of $854.81. If I paid the minimum payment of $20.00 it would take five years and total payments of $1,199.00. Therefore, I would be paying $344.19 in interest. Just think what I can do with almost $350.00 when I pay the full balance and pay no interest.

Studies show that many people have enough in their savings accounts to pay the entire amount of their credit card debt. If you are one of these

people you should pay the entire amount of your bill when your next statement comes in the mail. Let's look as a specific example.

Suppose, you have a $4,000.00 credit card balance. But you have $7,500.00 in a bank savings account. That savings is earning around one percent per year or $6.25 per month. Your credit card interest at 14 percent is $46.67 per month. When you pay off the credit card balance you still have $3,500.00 remaining in the bank. Now, you will still earn $2.92 on the saving account and will save the $46.67 resulting in a net savings of $42.34. That sounds good to me. If you add this savings to your savings account you will be even further ahead. Then, having paid off your credit card balance, try to pay the full balance every month and you will never pay interest again.

Yes, I have also said, you need to maintain about three to six months income for emergencies. You should do that. However, if you pay off the credit card balance in full you will have more money available to save and you can replace the amount you have withdrawn from savings by making larger monthly deposits of at least the net saving of $43.34 in the example above. Thus you are increasing the savings not the debt.

Do you have a car loan? Consider making an extra $100.00 payment each month. That extra $1,200.00 per year will pay off you loan much quicker. It will also help your credit rating. Credit rating companies like people who pay off debt sooner than required.

Another idea is to continue paying the amount of your car loan payment into a special savings account to be used for the purchase of your next car. If you pay the same amount, let's say your payment was $475.00. Then, if you deposited that same amount into a special saving account (even without interest) in three years you will have a balance of $17,100.00 which you may use to purchase a new car. I made this suggestion to my daughter a few years ago. Recently I asked her if she had done this. She said, "Yes, I have saved over $25,000.00." Wow, what a nest egg to use for the purchase of her next new car.

Once you have worked hard to rid yourself of debt you will be able

to begin to established an estate plan. Consult with your attorney and your investment advisor for details of the best methods to follow. No one plan is good for everyone; you will have your own needs. This chapter is meant to give you ideas not to solve your particular problems.

Chapter 36

Dumb Things to Do With Your Assets

(Giving too much cash and/or authority to your children)

We all love our children and tend to trust them. However, there are hazards in too much love and too much assignment of authority. Too much love may cause you to spend yourself to the edge of financial insecurity by trying to always come to the aid of your children. If you give too much responsibility over your assets to your children you may find that they have depleted your assets.

Yes, you want to be a good parent. You think you must help him in his hour of need. There is nothing wrong with that. However, you cannot continually help Billy. Helping once or perhaps even twice will be enough to show you love him. Beyond that you need to use “tough love” and say no. If you continue to bail him out he will never learn the personal responsibilities of an adult. Perhaps he will become dependent on you and never be able to take care of himself. How will the other children feel? Equal treatment to all children is also showing your love for each of them. Needless to say it also prevents jealousy.

When you do help Billy, you must establish why it is necessary, how much is really needed, and whether he will be expected to pay you back. Billy may only “want” rather than “need” a new car. Unless you can buy a new car for all your children it isn’t a good idea to buy one for Billy. If

on the other hand, his car has broken down and another car is a necessity; then going so far as to loan him the down payment should be all that is needed. If it is a loan (rather than a gift) then a written document called a promissory note should be signed by Billy and you should expect him to pay you back. Don’t be bashful about asking for repayment with interest. If Billy borrowed the money from a bank he would have to pay it back—so he should also pay you back.

A second problem is turning over authority to manage your assets to your children. There are several ways to do this. A power of attorney and trust are two that easily come to mind. Having a bank or trust company as an independent trustee may be a great solution if you have a child who is not as able to handle assets as he/she ought to be. You should see your attorney to discuss the advantages of one over the other. He/she will be able to advise you and help you decide which way is the best way to protect your estate.

A general or durable power of attorney gives someone the power to do anything with your assets that you could do yourself. It is activated: by you leaving the country, being ill, or becoming incapacitated. When one child is given this authority he/she has tremendous power over your property. Many times family problems arise because the other siblings think the one you chose is not properly handling the assets.

It is very important to appoint a child who will cooperate with both you and the other children. My experience is that often children think that mom and dad have more assets than they actually have. Also, that the designated child is using the money in some fashion which is not what they think your parents would want to do. Unless all the members of the family know what is going on there will be suspicions and hard feelings. Frequently, the problems that result are so bad that there is a complete breakdown of an otherwise strong family into one with various sides each warring against the other. Do you want this?

The best way to solve this possible problem is to have a family gathering to discuss the reason for doing whatever it is you intend to do. Establishing a power of attorney or a trust in which you name one child as

attorney-in-fact or as trustee may cause family problems. During the meeting you must state your reasons for what you are doing and your expectations. Without a full family meeting some children may suspect undue influence by the one to whom you have granted this tremendous power. Frequently law suits between children which are based on this undue influence. Only full disclosure will help elevate this problem.

A trust is somewhat better than a power of attorney because more records are required. The trustee has certain statutory requirements of notice and providing information not required of a power of attorney. With a trust, you can appoint an independent trustee. A trust company or a bank are two good examples. With a professional trustee there is both experience and the ability to do what is right but not necessarily the most popular thing. It is the trustee's duty to carry out the terms of the trust in every detail without favoritism to anyone. Investment decisions are made by an experienced investment advisor and administered by a knowledgeable trust officer.

With a trust, information is provided to all beneficiaries. Therefore, the beneficiaries know just what has happened. The trustee will advise everyone; where the assets are invested, the source of income that has been earned, the amount and where it has been spent, and the balance in the trust. There is little room for doubt and mistrust with a trustee who follows the rules.

Once you have worked hard and established an estate, don't give it away or cause family trouble. Consult with your attorney, your investment advisor and the whole family before you do either a power of attorney or a trust. A happy family is an informed family.

Chapter 37

Dumb Things to Do With Your Assets

(Hoarding your money)

Saving is important to a point. Once you have established a diversified asset portfolio which will produce sufficient income for a comfortable retirement you have reached the point where your estate will continue to grow. Then, how much more do you need to save? If you have begun to accumulate more income than you spend it is time to shift gears and start spending and/or gifting to your children. Wow, I bet you never thought I would say that.

Why do you want to continue to hoard your money? Why sacrifice things you need just to accumulate more money? What are you going to do, put it in a can and bury it in the back yard? Don't, it won't grow a money tree. Generally hoarded money does not produce income. Seriously, hoarding may actually result in lost money due to inflation.

Are you hoarding to the point that you are denying yourself things you need? My grandparents used to sit around in the dark to save electricity. They lived during the great depression and for them this was reasonable. They weren't rich but denying themselves light wasn't reasonable. Today, we read about many who must chose between food and medicine. That is not good. However, these are not the people who have enough assets to be concerned with hoarding. Once you are comfortably retired, there is no reason to deny yourself something you need and can clearly afford. Perhaps need isn't even an issue. If you want it and can afford it buy it.

Perhaps you are afraid you will run out of money before they die. This is a reasonable concern. I have several trust customers who are very concerned about this. To some, there is reason for this concern. To others, I have a hard time convincing them that they could never spend it all during their lifetime. Remember, if you never spend more than your income you will never run out of money. You should discuss your

financial affairs with your financial advisor and family. Once you are comfortable that your assets will last, you can shift into the spending mode. It may be hard to shift gears. However, shifting to spending or gifting may be reasonable. You should still be reasonable in your spending habits but not as tight as you may have been when you were younger.

If you have an IRA you must begin to take required payouts (at age 70 ½) then the general rule is that you may take four (4%) percent each year and be safe. There is no guarantee that the fund will last as long as you live but it should. Talk with your investment advisor to discuss your needs verses you concern that the fund last.

Taxes are an issue. If you accumulate too much your estate may become subject to estate/inheritance tax. The extension of the "Bush Tax Cuts" by congress has resulted in a five million dollar estate tax exemption. This means that the first five million will not be taxed. Therefore, most of us will not have to worry about estate tax. Discuss this issue with your tax advisor. If he/she says that your estate will be subject to estate tax you have only a few choices. One of the most beneficial may be the establishment of a trust. A married couple has special advantages which, if properly, established in a trust may result in substantial tax savings. Otherwise, your choices are; keep it and be subject to the tax, give it away, or spend it.

Start enjoying your wealth. There are so many ways. Now that doesn't mean that you can, all of a sudden, become a foolish spender. Do you want a new car? Is there a particular car you have always dreamed of owning? Then buy one. I once had a client who had a ton of money. When I asked him if he and any items of personal property to give to his children he said, "I don't have anything they would want." I knew he was tight; obviously he had never shifted gears. He really had nothing but stocks and money in the bank. I thought at the time that it was so very sad. At the same time remember to keep all those good old habits you have developed over the years. Just enjoy your wealth and don't hoard.

Don't forget your church or favorite charity. You can always up your giving. Some may still be giving the same amount they were twenty-five

years ago. Well, with inflation you will need to up that by at least 219% just to keep up with inflation. So, for every $5.00 you gave twenty-five years ago you would need to give $11.00 today.

Some are want to leave a large inheritance to their children or grandchildren. Good; but, wouldn't it be nicer, for both of you, if you gave them something when you can see them enjoy it. Help the grandchildren with college. Give the children a substantial gift for a birthday or at Christmas. Take the children and/or grandchildren on a vacation. Spending a few days with a grandchild on a special trip which will create great memories that both of you will never forget. Who knows hugs and kisses may flow your way. The satisfaction you receive will be greater than hoarding. After you are gone there will be no thank you notes.

Chapter 38

Why You Need A Trust

To Avoid Probate

With this chapter, I will begin a new series describing various reasons why you may need a trust. The chapters to follow will cover several reasons to consider before determining that you need a trust. Common reasons are, to provide for your own care, protection for children, reduce taxes, and selecting your trustee. These topics were covered very briefly in chapter. 30. However, each chapter in this series will be covering the topics in more detail.

Avoiding probate seems to be everyone's goal. As you know I served as the judge in the probate division in Franklin County for twenty years. Not everyone needs to avoid probate. Most people don't avoid it at least in some small part. If you own anything in your own name it will have to go through Probate Court to transfer the asset to someone else. There

are several short probate proceedings: Refusal of Letters to a Spouse, Refusal of Letters to a Creditor and Small Estate Affidavit. The first two may actually be done by the Probate Clerk without a lawyer and the cost is minimal. The small estate is done with the help of a lawyer but may be done quickly.

The only sure ways to avoid probate are: 1) to own nothing in your own name, 2) to have everything you own in joint names with right of survivorship, 3) to have everything transfer on death (t/o/d) to someone, or 4) to have a trust into which you have transferred ownership of all your assets. The important thing is to know all your assets and how they are owned.

Any asset you own in just your own name will have to go to probate court. If you have any asset in joint ownership or transfer of death it will pass directly to the named individual by operation of law. Without a will, individually owned assets will pass by the Missouri law of descent and distribution. Section 474.010 Rs.Mo. provides for the surviving spouse to receive the entire estate unless there are surviving children. Then the spouse receives the first twenty thousand plus one-half of the balance of the estate. When a decedent has children that are not the spouse's children the spouse receives one-half and the children divide the balance. If there is no spouse the children will divide the estate. Then if no children or grand-children, then to your father, mother, brothers or sisters. To prevent distribution under Missouri law you must have a will.

Many do not understand the legal effect of a will. All good estate plans have a will and most have a trust. A will has no legal effect until you pass away. This is because you may always change your will as long as you remain legally competent. With a will your assets will pass based on the terms of your will. The will becomes a valid enforceable document when presented to probate and admitted. Then it becomes the court's duty to see that the estate is divided according to the terms of your will.

The probate process would begin by person you name as personal representative hiring a lawyer. He/she will file a petition to probate the

will. Then the Personal Representative (P. R.) is named by the court to administer your estate. The P.R.'s duties are to collect your assets, pay your just debts and divide your estate according to the terms of your will. He/she will file an inventor, file a settlement showing how the estate has been handled, and then petition to distribute the estate. All of this is a public record. There is a file on the court's shelf for the whole world to see.

Assuming you have sufficient property a trust is the best way to avoid probate. This is because a trust is a legal creature. By establishing a trust you create a new legal entity. This legal entity will continue to have a legal life after you pass away. The successor trustee will take charge immediately and continue to administer your trust without any court intervention. That is a very simple explanation of how a trust allows you to avoid probate.

Once you decide you need a trust the most important thing you must do is obtain a lawyer to draft the trust. Then you must transfer all of you assets into the trust. If you fail to do so, the assets outside the trust will have to be probated. It is much like opening a safe deposit box and then not putting anything in it.

A trust is private, no one other than those named in the document have a right to know anything about your trust estate. The trustee will administer the assets in the trust, pay all just debts, and pay any specific bequest (i.e. friends, church or favorite charity) you may have stated. Then a statement of accounting will be provided to all concerned and a schedule of proposed distribution will be sent to everyone. Time to object will be provided and, if none, distribution will be made. No one outside those named in the trust know anything about what has happened to your assets. For all of the above reasons a trust may be good for you. You should discuss the establishment of a trust with your family. You must contact your lawyer, tax advisor and financial planner to obtain the best result.

As with all my articles, the information in this article is general and meant to give the reader enough information to ask reasonable questions to their lawyer, financial advisor, CPA, or tax advisor. Please see one or

more of these professionals before taking any legal action involving your financial situation. Your situation is unique to you and you deserve special attention.

Chapter 39

If You Need A Trust

Then You Need A Lawyer

Once you decide you need a trust, for whatever reason, your first step in the development of a trust is to obtain a lawyer. Establishing a good working relationship with a lawyer is just as important as the relationship with your doctor. I cannot over stress the importance of having a lawyer.

Don't fall for an off-the-shelf trust form or a trust found on the internet. You need a trust which has been drawn up specifically for you. I have seen several important looking trust documents prepared by people using internet documents. They were not designed for this particular individual. Further, there is no one to explain it; so, to understand the trust document you need a lawyer. Never sign any document which you do not understand.

If you already have a lawyer go see him or her. If do not have a lawyer, ask around to see who your friends have used. Ask your financial advisor or your tax advisor. You may obtain the name of several lawyers. Then determine which lawyer has the knowledge and experience to write the trust with which will serve your particular needs. There is no substitute for experience. Ask how many trusts the lawyer has drawn. Ask him/her what the lawyer's duties are and the services which will be performed. The lawyer should appear interested in your particular concerns. You should feel comfortable answering his questions. Ask about fees.

The fee may be determined by the complexity of your estate, the terms of the trust, and distribution plan. Don't be bashful, ask how much the trust will cost you. The last thing you need to have happen is, to be shocked when the lawyer sends you a bill after the trust is signed and sealed.

You want to get the trust done--establish a time frame for the completion of the trust. You may need several visits to the lawyer. This document will control your assets both now, while you are alive, and in the future when you are not able to handle your assets. This may be the most important thing you will do to protect the future handling of your assets. Don't be hesitant to spend the time and money to do it right.

I so often hear the client say that a trust costs too much. Well, you will get what you pay for. Don't be tight at this point. If you have accumulated a substantial estate--you need to protect it. Think of the fee much as you do homeowner's insurance, a necessity.

Once you have employed the lawyer you must sit together to develop a relationship. You must trust the lawyer, as much as you do your doctor, to have your best interest at heart. You are establishing a professional relationship. The lawyer will comply with all the professional duties. He/she will keep your information strictly confidential. No one outside the lawyer's office will know what you have discussed. Lawyers don't go home and report daily events involving clients to their spouse. My wife used to see friends in the grocery store who would say that they had seen me in the office. She had no idea they had been in the office. This was a surprise of her friend. Trust me lawyers will keep your personal information confidential.

You will need to discuss all of your concerns. Don't be afraid to ask questions. Something you think is stupid may be actually very important. You must describe your needs, and what your wanting to accomplish by establishing a trust, and how you want your assets managed.

Listen to the advice of the lawyer. You are paying for information, opinion, experience, and a continued relationship. Lawyers are consid-

ered counselors. Much like your priest or pastor, they can only help only if they know and understand you, your needs, and your concerns. You should get help, direction, and a feeling of security. Don't think of signing the trust document as the final act. You will need a continuing relationship with the lawyer.

Chapter 40

You Need A Trust

So---who should be your trustee?

In previous chapters I have covered using a trust to avoid probate and how to find a lawyer. So, if you need a trust, you need to sit down with your lawyer and consider who you want to serve as trustee. Before you decide upon who you want as your trustee, it would be good to consider the abilities of the trustee, duties required of a trustee, and independence of your trustee.

The trustee's duties are to administer the trust. There are many responsibilities, the most common are: collection of assets, income and documents; receiving, depositing and entering in the book all income; payment of bills, debts and other expenses; seeing that tax returns are prepared and filed; and, keeping beneficiaries informed as required by law. Does that sound like a tremendous responsibility? It is!

During your life you may want to serve as the trustee. This is most commonly done. You have been able to manage your assets to this point, very likely you have done a good job, so there is no reason for you not to continue. There is no reason to question your own abilities at the present time. The future is another situation.

There may come a time, because of a change in your physical or mental condition, when you will not be able to continue serving as trustee. Ultimately a successor trustee will be necessary upon your death. Therefore, you must name a successor trustee who will take over and serve as trustee doing all the things you have been doing. Determining who this will be is very important. You may choose a child, a friend, or a professional trustee--a bank or trust company.

Considering and determining who should be your successor trustee is very difficult. This is for two reasons. At this point you must consider the abilities and independence of the successor trustee. The old saying, ***"There is no substitute of experience"*** is so true. It is common to consider a child. However, you must know about his/her ability to manage your trust assets. Can she/he handle all of the duties mentioned above? Also, consider the child's independence. If you have only one child, there is obviously no problem. Naming one child may create a situation where he/she as trustee may be required to make a decision which will not be popular with the other children. This can cause hard feelings and completely disrupt a family relationship,

Independence is required if you have a child to whom the trustee is going to be required to set limits. A spendthrift child will have to be told that she/he cannot have a larger distribution. If the object of the trust, for that child, is to insure that assets remain available to support the child, then setting limits on the amount of a monthly distribution may be very difficult for a sibling to make. A corporate trustee, like a trust company or a bank with trust powers is a good choice it such a case.

When considering using a professional trustee you must consider several things. You ought to sit down with the trust officer to ask questions. What services will be provided? What fee will be charged? How will the trust assets be managed, diversified, and invested? Who will make investment decisions? How difficult will it be for beneficiaries to consult with the trust officer handling your trust?

Contact with the trustee is very important. You need to know with whom you will be able to discuss any situation which may develop. Will

you have the same person to help you or will you be part of a large trust company where you will frequently deal with different people? You want to be assured that you and your trust will be given all the attention necessary to provide for you and/or your beneficiaries.

What experience does the corporate trustee have handling similar trusts? Is your trust one that they may consider small, medium or large. Will they provide different services depending on the size of your trust? In all areas you want to know that they will provide personal, hands on, assistance to both you and to the beneficiaries. Keeping everyone informed is very important.

You will also need to determine how your trust estate will be divided when you pass away and who the trustee will be at that point. Again the successor trustee may be whomever you choose. The division of your trust estate may be simple—everything divided between your children. It may be more complex—children and grand-children, even a special trust for a child with a disability or to shelter the assets of a spendthrift child. Use your imagination in this area and be as unique as you want.

As with all my articles, the information in this article is general and meant to give the reader enough information to ask reasonable questions to their lawyer, financial advisor, CPA, or tax advisor. Please see one or more of these professionals before taking any legal action involving your financial situation. Your situation is unique to you and you deserve special attention.

Chapter 41

You Need A Trust

To Avoid Taxes

It's time to discuss the nasty word **"Taxes"**. Some of you will want a trust to help avoid or reduce estate taxes. While the problem is not as big as it once was, it is still the elephant in the room.

I recently attended a meeting of the Estate Planning Council of St. Louis during which Steve R. Akers of Dallas, Texas made a 45 minute presentation on the present tax situation. He gave each of us a 96 page handout. I also attended the MOKAN Trust Conference in Kansas City last month where taxes were a major concern. I will try to condense what I have learned into this short article.

We now have an extension of the "Bush tax cuts". This bill passed in the lame-duck session of congress (December, 2010) and will remain in effect until the end of 2012. After that we are not sure what the tax laws will be, congress will have to develop a new law. The highlights of the new law are interesting.

First of all, the present estate tax exclusion is $5 million with a tax rate of 35% for all amounts above that number. This means that if your total estate is less than five million dollars you will not be concerned about estate taxes. So, most of us will not have to worry about an estate tax. However, read on as this is not the whole story.

The gift tax exemption is the same, $5,000,000.00. However, to the extent you make a gift you will reduce the estate tax exclusion of five million, because of the complicated "clawback" rule. Every dollar you give away is one dollar less in the estate tax exclusion. So, if you give away $250,000.00 you have only $4,750,000.00 remaining in your estate tax exclusion. This is an area where you must seek the expert advice of

your tax advisor or lawyer.

It is common for senior citizens to make bequests to their grand children, either in a will or a trust. This may create a less well known problem. That is the Generation Skipping Tax (GST). The GST tax is less well known than either the gift or estate tax, but has the same basic idea: to tax wealth transfers. The GST tax targets bequests to grandchild and great-grandchild. Basically the GST will tax all transfers leapfrogging generations. The amount at which the tax becomes significant is at the five million dollar level.

In the present climate it is still important to plan. Your general strategy should include a will or trust with a marital deduction at the first spouse's death by a Qualified Terminable Interest Property (QTIP) trust. The QTIP will provide income for the spouse without invading the principal of the trust. Sheltering assets for the surviving spouse is equally important. Try to keep assets available in the surviving spouse's estate to obtain a step up basis.

The step up basis is the date of death value rather than the original cost. This means that the beneficiary will get the benefit of the date of death value as the cost basis for tax purposes. This is very important in cases where an asset has appreciated in value. For example, if you purchased a home for $75,000.00 and upon your death the value is $185,000.00. With the step up basis, for future tax basis for a beneficiary, is the date of death value of $185,000.00.

What if you actually have assets somewhere near the five million mark between you and your spouse? You must do serious estate planning. Not doing anything may cause real trouble on the death of the survivor. You must look at all of your assets, those in your name alone, those in the spouse's name alone, IRA's of both spouses, property held in joint names, life insurance. In short, count everything.

Here is a specific example of what may cause trouble. You have a home worth $650.000.00 in joint names plus savings, checking, stocks & bonds, etc. totaling $750,000.00. Your IRA has a balance of

$750,000.00 and your life insurance policy pays $350,000.00. That is a total of $2,400,000.00. If you do nothing, all of these assets will pass to the surviving spouse. No problem. However, on the death of the survivor, we add some items acquired after the death of the first spouse as well as assets owned individually by the surviving spouse. Assume, that the surviving spouse has an IRA with $720,000.00 and a stock portfolio of $300,000.00 we have now added over a million dollars to the value of the surviving spouse. What if an inheritance is received of say, one million plus an accumulation of the stocks and other assets equal to an additional million dollars? Now, we have a total estate of the surviving spouse equal to over five million. Some planning before the death of the first spouse is crucial to reducing or avoiding estate taxes.

The above example presumes the inheritance of a large amount. That may seem ridiculous, but the "Greatest Generation" is sitting of billions and billions which is going to be inherited by someone. If your parent has a substantial estate which you may receive by inheritance; or, if you have children who are doing very well, so that you may consider passing over them to your grandchildren, then some serious planning around these situations is very important.

One small item of good news is that there is no Missouri estate tax. This is because the IRS no longer allows a credit for state death taxes. However, if the IRS reinstates the credit there will be a Missouri tax required by Sections 145.011 to 145.955 R.S.Mo.

The estate tax exemption is now five million dollars. That is until January 31, 2012 when the 55% tax rate kicks back into place. You may need to plan for both the present and the future. Every "expert" says that Congress will do something to establish a permanent estate tax rate. They are making various predictions—not I. I never like to predict what Congress will do. Surely something will come out of Congress by the last quarter of 2012. At this point is in imperative for you contact you lawyer for advice.

Taxes are a serious matter. You should contact your lawyer, accountant, or tax advisor to ascertain your own solutions. Also discuss your sit-

uation with your financial advisor. Nothing in this article is specifically applicable to you. The discussion is provided to give you general information only.

Chapter 42

Diversify Your Retirement Assets

It's more important than you might think

When you have a saving/retirement account you must consider several things. The first consideration is your age. Age presents a time horizon factor. Second, consider the asset factor (the amount in your retirement account) and your life style factor. Then you must determine how to diversify your assets in accordance with your plan for retirement. Depending on your concerns, the type of diversification of your assets is of paramount importance. Let's look at the various ideas for diversification.

If you're young, there is a certain formula for a saving plan. The young have a much greater risk tolerance factor than does a senior. The plans for diversification change as we age. Most of us, at this point in our lives, are interested in income for retirement. However, if you have children or grandchildren, you might recommend to them an asset allocation designed to produce high growth. Such a plan would be invested almost wholly in equities with some small allocation to fixed income securities. Equities are generally defined to be common stocks or mutual funds investing in common stocks. Younger people have the luxury of time during which their investments hopefully grow. Because they are working they have present income. Stock dividends should be reinvested. When all dividends are plowed right back into the stock you get the advantage of both stock averaging and compounding of returns.

At this point, if you are retired or about to retire, you are at the opposite end of the investment spectrum. You are interested in income. How you produce that income is the real matter of concern. There are five areas of income which are commonly received by retirees; Social Security, pensions, retirement accounts, savings, and part-time earnings. You should begin by considering your total retirement income from all sources. This becomes your income factor. How you use it will depend on your life style factor.

The general categories for allocation of retirement income are: Current income, Income, Balanced Income and Growth Income Balanced. These are categories which have been established to assist an investor in the diversification of his/her assets. Which one you chose will depend on your present situation and future goals. Each category has its own allocation of assets by category.

Perhaps at this point, it would be a good idea to consider several terms. Equities are generally divided into four groups: Large Caps, these are nationally recognized, well established, financially sound companies with over ten billion capitalization; Mid Cap stocks, companies which have a capitalization in the two to ten billion range, Small Caps, smaller companies, and finally, Foreign Stocks. You may consider investments in individual company stocks or mutual funds in each of these categories.

If virtually all you are interested in is income, investments in fixed income assets are the type for you. Such investments are certificates of deposit, bonds (government and/or corporate) and mutual funds with investments in such assets. The recommended allocation for this area is 90% of your assets invested fixed income assets with 10% in cash. Today, there may be a concern about inflation. If it develops, as everyone seems to expect, then long term corporate bonds, which now have a return in the 3 to 5% realm, will not keep up with inflation and will decrease in value. Perhaps, one should consider short term bonds or I-Savings Bonds and/or TIPs which are government bonds with interest set to adjust according to inflation.

A second category in the income area has a diversification of 20% eq-

uities, 75% fixed income and 5% cash. This type diversification will allow (with the proper investments) some growth in overall assets value. At the same time providing fixed income on which you should be able to depend on continuing. The equities, if invested in high dividend producing stocks or mutual funds will offer flexibility in value and income.

A third diversification plan is balanced income. Here you would invest 40% in equities, 55% in fixed income and 5% in cash. This area will be a little riskier but will allow for more flexibility. Such diversification will provide for growth at the same time providing for income. An investor with a substantial income from other areas such as Social Security and pensions may consider this area because there may be less need to rely on the income from savings.

Diversification is an ongoing matter. You should sit down with your investment advisor, from time to time, to consider whether the plan as it exists is still appropriate. Your retirement account may grow in some areas and decline in others. Your need for income may change. For example you may need to pay for assisted living or nursing home care. Therefore, review is important to insure that the retirement fund remains diversified to fit your needs at the present time. No matter how little or how much is in your retirement account, it is important to keep your diversification current.

All of these investment diversification categories are general and not designed to be used without the complete assistance of your own investment advisor. I just read a statistic that said less than half of retirees have investment advisors. Do you have one? It would be a good idea.

There is no one plan for everyone. You are an individual with your own specific needs. Please, do not rely on me to make your investments. Where and how you invest is entirely up to you.

Author's Note

We at the Bank of Sullivan hope you have found the information in this booklet both interesting and helpful in the development of your estate plan. If you are interested in establishing a trust, in which you name the Bank of Sullivan as either trustee or successor trustee, I will be happy to meet with you and help you plan your trust.

There are limits to what I can do. However, if you come in we can sit down and discuss your concerns. I will assist you with ideas about the various things you may do when establishing a trust. The Missouri Bar rules prohibit trust officers from preparing legal documents. Therefore, you will have to see your own lawyer to have the document drawn up; but, I will help you formulate your ideas into the proper context. This will save the amount of time you spend with your lawyer and thus save on the legal fee.

Once the trust is established (if you name the Bank of Sullivan as trustee in some form) I will help you fund the trust. This is most important because if you fail to transfer all of you assets into the trust you will not gain all the advantages of a trust and some of your assets may still have to be probated.

The information in each chapter of this booklet is limited. It is the intention of the Bank of Sullivan to bring matters to your attention and nothing contained herein should be used by you to take action without the assistance of professional advice. It will be necessary for you to consult with your own financial advisor, tax accountant, lawyer and family before making any legal decision or signing any legal document. Anything you do will have some legal consequences. Please be sure that your actions do not have adverse effects on your estate plan. You should always seek professional assistance before taking any action which will affect your estate.

I will be happy to meet with you to discuss your needs. Just call 573-468-1403 to arrange for an appointment.

Walter A. Murray, Jr.
Trust Officer

Before you plan your trust call us for an appointment.

Walter A. Murray, *Trust Officer*

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