

WHAT DO I NEED TO KNOW ABOUT
Estate Planning?



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A Professional Corporation

WHAT IS ESTATE PLANNING?

Estate Planning is the process by which a person, couple or family plans in advance for the events of incapacity and death.



WHAT ARE THE GOALS OF ESTATE PLANNING?

The primary goals of **estate planning** are: (1) Reducing Estate or Death Taxes; (2) Avoiding the Cost and Time Delay of Probate; and (3) Ensuring the Appropriate Method of Distribution of Assets.

HOW DO I REDUCE ESTATE TAXES?

The bad news first and then the good news second.

The bad news is that an Estate or Death Tax is levied on all of your assets when you die and that the highest U.S. Estate Tax rate is 40% (2017).

The good news is that estate taxes can be reduced and even zeroed-out. For example, a married couple can transfer all of their assets to each other with no U.S. Estate Taxes (referred to as the Marital Deduction) and an individual can transfer up to \$5,490,000 (2017) to his or her beneficiaries with no U.S. Estate Taxes (referred to as the Exemption Amount).

U.S. Estate Taxes can be reduced by utilizing the Marital Deduction and the Exemption Amount in your estate planning. Furthermore, you can reduce estate taxes by gifting and by the use of more sophisticated techniques such as charitable trusts, life insurance trusts and family limited partnerships.

HOW DO I AVOID THE COST AND TIME DELAY OF PROBATE?

Probate is a court process by which your assets are transferred at your death to your heirs. Two disadvantages of probate are: (1) the financial cost to your heirs; and (2) the time delay during which your heirs have limited to no access to their inheritance.

The financial cost of probate can range from 3% to 5% of the value of your assets.

The time delay of probate can range from 4 months (minimum in Tennessee) to 16 months (national average) after the date of your death.

You can avoid probate by a number of different methods including: (1) Joint Tenancy with a right of survivorship; (2) Payable or Transfer on Death accounts (POD or TOD); (3) Beneficiary Designations; and (4) Living Trusts. However, Living Trusts are the most comprehensive method of avoiding probate in that Living Trusts allow for all of your assets to pass outside of the probate process.

HOW DO I MAKE SURE THAT MY ASSETS ARE DISTRIBUTED APPROPRIATELY?

You need to determine who inherits your assets, when they inherit your assets, and how much of your assets they inherit. All families are different and have different needs and circumstances. For example, do you have a minor child? Do you have a family member with special needs due to a mental or physical disability? Do you have a family member who cannot manage his or her own money? If yes, then you need to make special plans in your estate for these family members.

WHAT BASIC ESTATE PLANNING DOCUMENTS DO I NEED?

A complete estate plan consists of three (3) basic documents: (1) Last Will and Testament; (2) Durable General or Financial Power of Attorney; and (3) Durable Health Care Power of Attorney, Appointment of Health Care Agent, or Advance Health Care Directive/Plan.

WHAT IS A LAST WILL AND TESTAMENT?

A Last Will and Testament is a legal document signed by you and two witnesses which (a) names who will receive, and how they will receive, your assets at your death, (b) appoints an executor to administer your estate at your death and (c), if you have minor children, selects a guardian to care for your minor children at your death.

WHAT IS A DURABLE GENERAL OR FINANCIAL POWER OF ATTORNEY?

A Durable General or Financial Power of Attorney is a legal document signed by you which appoints someone to make financial or money decisions for you. The person appointed is called an Attorney-In-Fact or Agent. Your agent can be a family member, a friend, a professional such as a lawyer or accountant, or a trust



company.

WHAT IS A DURABLE HEALTH CARE POWER OF ATTORNEY OR ADVANCE DIRECTIVE?

A Durable Health Care Power of Attorney is a legal document signed by you which appoints someone to make medical or healthcare decisions for you. The person appointed is called an Agent or Proxy. Your agent can be a family member, a friend, or a health care professional such as a physician or nurse. An Advance Directive is a legal document signed by you which expresses your desires regarding being maintained on life support under certain circumstances and being an



organ donor or not.

WHY IS A LAST WILL AND TESTAMENT IMPORTANT?

Without a Last Will and Testament, the Government of the State in which you live and the Courts make all of the decisions for your estate and your heirs.

However, with a Last Will and Testament, You make the decisions. For example, if you have signed a Last Will and Testament, then:

- You decide who administers your estate.
- You decide who will inherit your estate.
- You decide who to disinherit.
- You decide who is the guardian of your minor children's persons.
- You decide who is the trustee of your minor children's property.
- You decide when and how your children receive their inheritance.
- You decide what probate costs to pay.
- You decide what taxes to pay.
- You decide who receives your personal possessions.
- You decide when to change your Will.

WHO SHOULD PREPARE MY ESTATE PLAN?

An estate planning attorney with experience in preparing Wills and Powers of Attorney should prepare your estate planning documents so that the documents will be valid under the applicable federal and state laws, rules and regulations.

THE BAILEY LAW FIRM

The Bailey Law Firm concentrates its legal practice in the areas of wills and trusts, estate taxation and planning, asset protection planning, charitable gift planning, business succession planning, elder law, and estate administration and probate. The Bailey Law Firm has attorneys licensed to practice law in the states of Mississippi and Tennessee.

OLEN M. "MAC" BAILEY, JR.

The Bailey Law Firm was founded by Olen M. "Mac" Bailey, Jr. Mr. Bailey received his Master of Laws (LL.M.) degree in Elder Law with honors from Stetson University College of Law, his J.D. from Vanderbilt University School of Law, and his B.A. from Millsaps College. Mr. Bailey is an accredited attorney with the Department of Veterans Affairs.

ESTATE PLANNING

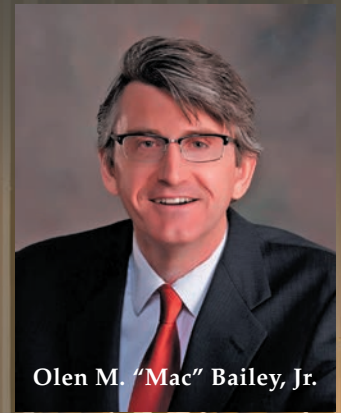
- Wills
- Living Trusts
- Powers of Attorney
- Special Needs Trusts

ELDER LAW

- Medicaid Eligibility Strategies
- VA Aid & Attendance
- Qualified Income or "Miller" Trusts
- Conservatorships

PROBATE

- Will Contests
- Estate Administration
- Trust Administration
- Estate Disputes



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