

ESTATE PLANNING FOR BLENDED FAMILIES

Estate planning for couples who have had more than one marriage can pose difficult questions depending on the length of the marriage, number of children (his, hers & ours), age differences among the children, among other factors. We can only touch on a few key points as each couple has unique situations and individuals in their family. Often, couple's expectations of their Estate Plan differ dramatically. Strong emotions can be attached to these expectations that can hinder the process of creating the plan. These expectations and emotions should be explored **before** meeting with an attorney to save time, money and awkward moments (picture fighting spouses at the attorney's conference room table!). Sometimes an attorney or neutral third party can facilitate the discussion and defuse the tensions.

THE KEY TO CREATING A MUTUALLY SATISFYING ESTATE PLAN IS COMMUNICATION

Financial Power of Attorney

Who will control your financial affairs if you can no longer do so? What restrictions should be placed on that person's authority? Is gift giving permitted; is changing beneficiary designations permitted; is adding a Payable On Death (POD) or Transfer On Death (TOD) designation permitted? Who should be the successor? Should one or two people serve together?

Advanced Medical Directive

Who makes decisions regarding your medical care if you can no longer do so? Who should be the successor? Should one or two people serve together? Are your wishes clearly known?

Prenuptial Agreement

The terms of a prenuptial agreement, if any, need to be incorporated into the estate plan.

Qualified Domestic Relations Order

Have the beneficiary designations of retirement assets been modified to meet the requirements of a Qualified Domestic Relations Order from a divorce?

Bodily Remains

Who makes the decisions concerning your bodily remains after you are gone: Your children, your spouse or your spouse's children? What are your wishes: Burial,

Cremation or Donation for organs or research? Where will be your final resting place? Next to whom? Is there a Family Plot? What should your marker say? When there is a long distance burial, who pays for travel expenses for the family members?

Tangible Personal Property - Who Gets What and When?

- Family Heirlooms & Photos
- Collections & Mementos
- Jewelry & Antiques
- Pets
- Gifts from children: should they get them back?
- Jointly acquired assets
- How will the children select what they want? How should disagreements be handled?

Remarriage of Surviving Spouse

The Spousal Right to Elect Against the Will – New spouse entitled to one-third of each assets in the estate unless 1) there is a prenuptial agreement or 2) assets are in Trust for Surviving Spouse. If 1) and 2) do not apply, then assets get diverted away from intended recipients.

Sorting of Financial Priorities

- Support for Surviving Spouse
- Education of younger children
- Immediate inheritance for children vs. postponed inheritance after both spouses are deceased
- Special Assets – Inheritance from parents.

Personal Representatives & Trustees

- Is the Fox guarding the Hen House?
- Co-personal representatives and Co-trustees: Checks and Balances.
- Who are the successors?
- Majority Rule or Unanimous Consent?



AITKEN & STEVENS

ATTORNEYS AT LAW

PLEASE NOTE: These materials are presented for informational purposes only and should not be considered legal or financial advice as to any specific matter or transaction. They are not intended for the purposes of advertising or soliciting clients, and should not be misconstrued as establishing an attorney-client relationship. Readers should consult a knowledgeable attorney for such advice. May be reproduced with attribution.

©2016-2021 George A. Aitken, Esq.