The 5 Illinois Estate Planning Secrets You Need to Know

No one likes to think about the end of their life or the death of a loved one. As a result, estate planning is a difficult issue that many people want to avoid discussing. Unfortunately, there is a steep price to be paid for avoiding estate planning discussions and legal preparation. Without a proper estate plan, your assets might not be distributed as you intended and your loved ones could suffer the consequences in terms of time, money, and stress.

Comprehensive estate planning, however, allows you to prevent unintended property distribution, minimize any negative tax impact, maintain privacy, and ensure that your minor children are cared for by the guardians of your choosing. As an experienced estate planning lawyer, Marc Blumenthal knows the ins and outs of the Illinois estate planning process and, in this e-book, he provides you with an insider's guide to Illinois estate planning with the ***five estate planning secrets that you need to know***.

1. Everyone needs a will.

Let me repeat: ***everyone*** needs a will. Many people assume that they do not need a will because they do not have significant assets, they are unmarried, or they do not have children. But a will is absolutely essential regardless of your financial, marital, or parenting status. If you die without a will – which is often referred to as dying intestate - state law will determine the distribution of your assets, which may not be the way that you would want your property to be distributed.

Additionally, if you die without a will, the probate process is significantly more time-consuming and costly. A Court will oversee the distribution of your assets and the payment of your debts, which is often be a slow and tedious process. The probate process is often more costly, as well, because the court requires an annual accounting for all costs associated with the estate of an intestate decedent.

If you have children, and both parents die without a will, the court will also decide who will assume guardianship of your children. Not only might the court's decision about guardianship contradict your intentions, but it could also lead to significant family disputes about who will assume guardianship.

Finally, intestate probate proceedings are *public* proceedings, with all information publicly available. Accordingly, the value of your assets, the amount of your debts, and any family secrets could be aired in court and available for public eyes to see.

By setting forth your intentions in a will, you can ensure that your assets are distributed in accordance with your wishes, that your children are cared for by the guardians of your choosing, and that your personal matters remain private.

2. A trust is essential in three situations – and highly recommended in several others.

Unlike a will, a trust is not always necessary. There are three unique situations, however, in which a trust *is* essential, along with several other situations in which a trust is highly recommended. A trust is essential if:

- If you are single and over the age of 50, a trust will be able to provide specific instructions on managing your financial affairs in the event that you become incapable of doing so.
- If you are married and yourcombined net worth is over $4 million, a trust can save you a significant amount of money in estate taxes.
- If you are concerned about maintaining privacy, a trust can ensure that your personal affairs stay out of the public eye by remaining outside of the probate court system.

A trust is also recommended in a number of other situations. For instance, a charitable trust is an irrevocable trust that can be created for the benefit of a specific charitable organization. A living trust is revocable and can be altered during your lifetime. Finally, a dynasty trust can be used to hold property for the benefit of successive generations.

3. Even if you have a trust, you still need a will.

A trust does not eliminate the need to have a will. If you do not also have a will, any assets that are not part of the trust will pass intestate, which means that those assets may not be distributed according to your intentions. Moreover, a trust cannot deal with guardianship issues and certain assets, such as tax refunds and other assets that are acquired after the trust is prepared, cannot be placed into a trust.

4. Everyone needs a power of attorney for health care.

Just like everyone – ***everyone*** – needs a will, everyone should have a health care power of attorney, regardless of age or financial status. Health care powers of attorney, which are sometimes called advanced directives, can communicate your wishes regarding who you want to make medical decisions on your behalf in the event that you become incapable of doing so. Without an advanced directive, a hospital will do whatever it takes to keep you alive even if that is not what you would want under certain circumstances. An advanced directive allows you to express your end-of-life choices to your family and gives them the tools with which to carry out those wishes.

5. Do not overlook the need for a power of attorney for property.

Just like you need a health care power of attorney, you also need a property power of attorney to communicate your wishes regarding who will make financial decisions in the event that you become incapable of doing so. There are a number of situations in which you could be alive, but incapable of managing your financial affairs due to a deteriorating mental or physical condition. Without a property power of attorney, any assets that are not held in a trust or through joint tenancy will need to be managed by a third-party in the event that you become incapacitated. For instance, tax refunds, retirement benefits, and inheritance proceeds all need to be managed and, without a designated executor, those assets may not be managed with your best interests in mind.

If you would like additional information or assistance with your estate plan preparation, please contact Marc Blumenthal at (847) 808-7090.