DOWNLOAD PDF ESTATE PLANNING FOR THE FAMILY

Chapter 1 : Estate Planning for Young Families - racedaydvl.com

However, building out a detailed succession and estate plan for the family farm is essential. Families that fail to do so put both family harmony and their most valuable asset at risk. According to the USDA, the average value of assets for larger family farms was about $ million in

Print No one likes to think about death, especially their own. The topic can seem morose and maybe even scary. No one likes to think about sitting down to make a will, either. Images of lawyers, reams of paperwork, and a somber atmosphere in a stuffy office likely come to mind. Plus, there are the fees to shell out to pay for a will â€” something that will be locked in a file drawer for years and years, in most cases. Just 36 percent of people with children under age 18 have an end-of-life plan in place. Advertisement Wills and estate planning are so important, you should think of them as a love letter to your family. When it comes to estate planning, just 42 percent of U. What would happen if you had a catastrophic illness? Who would make health care decisions on your behalf, or have access to your private health information? Many baby boomers are neglecting a key part of their retirement plans by not having an estate plan. But is that even true, or would it end up in probate? Can they keep the house? They are not focused on death. Just one in five millennials has a will. Just one in five â€” 20 percent. This is a potentially devastating oversight. The reality is that no one can predict the future. If you have a young child and you and your spouse both die without having a will in place, it would be up to the state and the courts to decide what happens to your assets. What would happen if you had a catastrophic illness or accident? Who would make health care decisions on your behalf or have access to your private health information? Who would make financial decisions on your behalf or have access to your finances? Broadly speaking, the complexity and cost of setting up a will or living trust depends on how complex your circumstances and assets are. The legalese can be somewhat daunting, Roper said. Just get around to it.

Chapter 2 : Estate Planning: 16 Things To Do Before You Die

The idea of "estate planning" can seem overwhelming. And when you're looking at a modest, quaint little family cottage or cabin that doesn't seem to qualify as a regal "estate," the idea of estate planning can seem a little pretentious.

You need to prepare your family first, and it helps to set some ground rules. Getty Images By Katherine W. This is a big step for you and your family. You have excellent intent! Feelings are hurt, arguments ensue and you completely miss the end goal. Was this just mission impossible? What should you have done differently? Make sure to signal before switching lanes I have seen this example play out all too often. The reason is typically because some felt they had no voice in advance of the meeting. None of these things are intentionally stated, but merely implied, having been ingrained in us from a very young age. When this happens, it can cause people to question the intent. If no one signals a shift in lanes, even goals surrounded with good intent can go awry. Looping back to the family I mentioned above, opening up a conversation about your estate plan when wealth discussions have not been the norm, can feel like a significant shift in lanes. There is a need to be intentional in changing behavior. It is important to point out to those affected that communications are changing and why. Signaling a change in behavior can be a huge part of changing communication patterns as a family. Creating a safe space When you start to shift lanes, you are working together differently. Remember, that can feel foreign. In order to make that shift more comfortable, you need to collaborate as a family to define how you will act, communicate and work together in this new mode. This step can be especially important for younger generations who may feel it is not their place to share opinions or ask questions. Ground rules are a list of things you all agree to do when you are meeting. Advertisement Only one person speaks at a time. Agree to listen respectfully at all times, trying to put yourself in the shoes of the other. What is discussed stays in the room and is not shared with friends or work colleagues. Honor where each person is today. Everyone owns a piece of the truth. Everyone owns the outcome. If a family institutes a set of protocols or ground rules like those above, with practice, they can establish a positive environment, where all members should gain comfort in sharing opinions, questions and needs without fear of ramification. Tools that can help Communication assessments can be a valuable partner in helping individual family members and the broader collective family understand similarities and differences in how people both like to receive and give information. Most communication assessments are best delivered by a trained facilitator who can help the person taking the assessment best interpret the results. From an individual perspective, understanding your personal communication style can be invaluable. This understanding increases self-awareness and your ability to see how others may perceive you. With practice, you can also learn to shift your style to better accommodate the needs of someone with a different style, enabling you to become more influential in your communications. Dominance, Influence, Steadiness and Compliance. Everyone has all four styles in their make-up, but it is common to have a high level of one to two of the four styles and a low level of the other two styles. You can see how these two styles might be polar opposites, and without common language and understanding around why they show up differently, these individuals may have a difficult time being together. You are just wired that way! They position families to capitalize on those differences by turning them into strengths and leveraging family members in the spots where their talents can really shine. Even Your Pet Needs an Estate Plan Great communication takes intentionality Consider using the three ideas shared in this article to develop more effective communication within your own family: Signal a shift in lanes so that family members understand why things may feel different going forward. Create a safe space, where all voices in the family can be respected and heard, including those of younger generations. Use a communication assessment to take a strengths-based approach to better understanding the different communication styles in your family. One of the primary reasons that wealth fails to transfer successfully across generations is because of a lack of communication. Poor communication can lead to a breakdown in trust. Think about changing the outlook for your own family. Please consult your tax and legal advisors to determine how this general information may apply to your own specific situation. Dean leads the ongoing evolution of the Family Dynamics program curriculum as well as the management of the Family Dynamics team that is distributed across the country. The Family Dynamics team helps families sustain their wealth across generations, by facilitating decision-making about the complex issues that arise as a result of substantial wealth. This article was written by and presents the views of our contributing adviser, not the Kiplinger editorial staff.

Chapter 3 : 3 Succession Solutions for Family Farms - racedaydvl.com

Estate planning will require you to think about family relationships and some decisions may be difficult. But an experienced estate planning attorney will be able to help you through the process, provide valuable guidance and make sure your plan will do what you want when it is needed.

It is important, however, to keep in mind that most clients will not be subject to the federal estate tax and therefore the changes to the federal estate tax laws do not impact planning. Estate planning is still important for a multitude of reasons, including: Pennsylvania Inheritance Tax Unlike the federal estate tax, in Pennsylvania everyone is subject to state inheritance tax. There are still techniques to minimize the Pennsylvania inheritance taxes paid by those who inherit from you. For example, life insurance is not subject to Pennsylvania inheritance tax. In addition, real estate located outside of Pennsylvania is not subject to the tax and in certain cases agricultural use property is exempt from the tax. Children Providing for your children is one of the most important pieces of estate planning. Even if you do not think you have much to give them, you may have more than you think â€" for example, many employers offer life insurance as an employee benefit. Also, term life insurance is relatively inexpensive if you are younger and healthier. There are two primary options to provide for minor children: For a custodian account, you designate a custodian to manage the account for the benefit of your child or children. A custodial account is not as flexible as a trust but offers many of the same features. A custodial account can last until the child is twenty-five years of age. A trust is more flexible than a custodial account but requires more effort to administer. For example, a trust can last as long as you want. The trustee has discretion to distribute funds to benefit your child. You can specify certain events, such as buying a house, buying a car, getting married, or starting a business, at which your trustee is encouraged to make distributions from the trust for your child. You can also authorize your trustee to permit your children and their guardians to live in your current house rather than selling the house and to pay for the expenses of the house from the trust. If you or your spouse has children from a prior relationship, there are often unintended consequences of dying intestate meaning without a will. In these situations, it is important to make absolutely clear who is to be provided for and how much of your estate should go to each child. Often the intestate laws of Pennsylvania, in these situations especially, do not accurately carry out your wishes. Unmarried Couples For those of you who are not married but wish to provide for your significant other, you must have an estate plan for those wishes to be carried out. Pennsylvania intestacy laws provide for your estate to pass entirely to relatives, so even if you are living together, your significant other will not receive anything unless you are married. In these situations, life insurance can be especially beneficial since it is exempt from inheritance tax. Business Owners Small business owners who have not yet reached the federal estate tax exemption should still think about who you would want to take over your business if you were to die. Alternatively, your business can be transferred at death under the terms of your Last Will and Testament. It is important to plan for the orderly disposition of your business so that you do not lose the value that was created during your lifetime. Powers of Attorney In addition to a Last Will and Testament, you should have a healthcare power of attorney and a financial power of attorney. Your healthcare power of attorney designates one or more people to make medical decisions for you if you are incapacitated. In addition, your health care agent is authorized to receive HIPAA protected information this is especially important if you are single. A health care power of attorney also sets for your wishes regarding end-of-life medical care. Your financial power of attorney allows someone to act on your behalf for any financial matters. This could include anything from writing checks for you if you are out of town, to applying for government benefits for you, to dealing with real estate transactions on your behalf. You may also need to use this power of attorney if you are out of the country, for example. But, having an estate plan is the first step in ensuring that your wishes are carried out and that taxes are avoided to the extent possible.

Chapter 4 : 12 Simple Steps to an Estate Plan | racedaydvl.com

Consider estate and gift taxes: Multi-generational estate planning is often designed for those who wish to minimize the payment of federal and state estate taxes, to ensure the majority of their wealth is available to supplement the expenses of their children, grandchildren and even great grandchildren.

A Family Affair Use our guide to save on taxes, avoid probate and keep peace among your heirs. Mike and Karen Lucero realized they needed to update their estate plan when they started planning for retirement. Not only does creating an estate plan force you to confront your own mortality, but it also forces you to decide who gets your assets, whether all heirs should be treated equally and who will play the key roles in settling your estate. To help get past the uncomfortable thought of your own death, remember that if you die without a will, state law will govern the distributions of your assetsâ€"and it may not go the way you want. If you have those documents but your assets have grown and your life has become more complex, it may be time to review and update your plan. By that time, your assets may have become much more complicated, your heirs have grown older you may have grandchildren now, too , and your wishes may have changed. Rather than focusing primarily on protecting your family if you die early, you may now be in a position to use your estate to help the next generation and build a legacy. Advertisement Also, you may no longer need some of the estate-planning strategies you used in the past. The number of people who have to worry about federal estate taxes has plummeted. Several states have changed their estate tax laws, too. Delaware eliminated its estate tax at the end of For example, people who bought life insurance to help cover estate tax bills are reassessing whether they need the coverage. Instead of creating estate plans primarily to avoid taxes, more people can now focus on what they want to accomplish with their money. Advertisement Those were the key issues that Mike and Karen Lucero, both age 54, focused on when they updated their estate plans this year. The Seattle couple did their first round of estate planning 18 years ago, writing a will and designating a guardian soon after their two oldest children were born. Their estate had become larger and more complicated, and they could afford to give more to charity, too. They updated their will, health care proxy and advance directive for end-of-life care, but they also wanted to do more than just pass a lump sum to their children, who are now ages 16, 19 and The Luceros will reassess those plans as their kids get older and have more financial experience. Rather than just divvying up money when you die, a trust can help you control what happens to it for years afterward. With a trust, you can specify when your heirs will get the money and how it can be used. Money in a trust can also avoid probate, the process of passing assets through a will. That can be expensive, time-consuming and publicâ€"and the Luceros are experiencing that firsthand. A trust can be particularly helpful for blended families. You can set up a trust to pay out income to your current spouse as long as he or she is alive, then pass the remaining assets to your children from your first marriage. Advertisement Julie Tappero created a new estate plan after she remarried. She became aware of the importance of estate planning when her first husband died unexpectedly from an illness in Because she had worked on an estate plan with him a few years earlier, she already knew his wishes for health care and financial decisions. Tappero remarried in August and created a new estate plan because she has two daughters, ages 30 and 38, and her husband has children and grandchildren. Now she needs to decide who will manage the trust. You can choose a family member, trusted friend, or financial institution to manage your trustâ€"or a combination. Take time to think through what you want your trust to accomplish. David TenBrink, 70, started his precision machining company in Holland, Mich. It has since grown to a person company that builds parts for trucks, military vehicles and tractors. He and his wife of more than 50 years, Mary, have spent a long time thinking about their values. They created a trust to help pass along the values of hard work, education and charitable giving to their three children and 10 grandkids. It can also help to have your financial team work together on your plans, which the Luceros did with their CPA, financial planner and estate-planning attorney. Your financial adviser may recommend an estate-planning attorney, or you can find one through the American College of Trust and Estate Counsel or the National Academy of Elder Law Attorneys. Matthew Wesley, director of the Merrill Lynch Center for Family Wealth, favors a series of progressive conversations over time. In later conversations, you can reveal numbers, such as how much money is in a trust or foundation. Make sure your kids also know where to find key documents and who to contact for questions and assistance when you die. A third party, such as your financial adviser, estate planner or attorney, can help steer the conversation. A professional can also explain the more complex aspects of your plan to your children. For example, you may have your attorney review the structure of your estate plan, your accountant discuss its tax implications, and your financial planner go over such technicalities as how the money will be transferred upon your death. A professional can also ease tensions and encourage both sides to talk. In some cases, leaving different inheritances to your children makes sense. For instance, a child with a severe disability or mental incapacity may need more financial support in life than your other children. Or parents who regularly give financial gifts to one childâ€"sort of an inheritance advanceâ€"might leave more to others to even things up. But there are ways for parents to give more to one child without stirring up hard feelings. And if other children have any questions about how the caregiver is paid, the parents are still around to explain their thinking. Communication is even more important when you plan to treat heirs differently, either by bequeathing unequal amounts or by giving one heir a lump sum while creating a trust with restrictions for another. Some name two children to the same role to avoid hurt feelings. To avoid problems, name one person to fill a role, but include a backup in case he or she is unavailable. Give it away before you die? You can also be sure that your gifts go to the people you intend to receive them. And the more property you keep out of probate, the less your heirs will have to deal with the costs and delays that can come with the process, Haskins says. Lifetime gifts can also serve as a barometer of how your heirs will manage inherited wealth. If he blew it on a shopping spree or a luxury vacation, that may guide how you set up his inheritance. Tax considerations are still part of the equation. Certain types of assets may be less desirable to transfer during your lifetime. However, if your assets will likely be subject to estate tax, it may be wise to give away stocks that you expect to appreciate significantly in the years ahead. Any appreciation that occurs during the time until your death will escape estate tax when you die. Health care expenses are especially important to consider. Account for how your personal spending may fluctuate, too. How to avoid probate Probate is the court-supervised process of passing assets through a will or through state law if there is no will after you die. Money in a trust generally does not have to go through probate. Life insurance death benefits and money in IRAs, k s and other retirement plans with beneficiary designations pass directly to the beneficiary without having to go through probate and the beneficiary designations supersede your will. Bank accounts and brokerage accounts held as joint tenants with rights of survivorship pass directly to the joint owner after you die. Many states now permit people to own bank accounts and other financial accounts with a transfer-on-death designation. To continue to benefit from tax-deferred growth, each heir must roll his or her portion of the IRA into a separate account known as an inherited IRA. Once heirs transfer the money to an inherited IRA, they can take annual distributions based on their own life expectancies. But to give your heirs this option, you must name them as beneficiaries of the IRA. The rules for withdrawals are the same as they are for traditional IRAs. If your heirs transfer the money to accounts for inherited Roth IRAs, they can usually stretch withdrawals over their life expectancies. You also need to prepare for the possibility that you could become incapacitated and unable to make your own financial and health decisions. A durable power of attorney lets your agent manage your finances and legal affairs. A release-of-information form gives doctors permission to share your medical records with designated representatives. A durable medical power of attorney also called a health care proxy names a representative to make medical decisions on your behalf. And a living will specifies the medical treatment you do or do not want during a terminal illness.

Chapter 5 : Estate Planning: A Family Affair

Family LLC estate planning is a method of protecting your assets and passing them on to your family members. Whether this is the best solution for your family estate planning purposes depends greatly on the value of your assets.

This hybrid legal entity is beneficial not just for small-business owners, but is also a powerful tool for estate planning. If you want to transfer assets to your children, grandchildren or other family members â€” but are concerned about gift taxes or the burden of estate taxes your beneficiaries will owe upon your passing â€” an LLC can help you control and protect assets during your lifetime, keep assets in the family and reduce taxes owed by you or your family members. What is an LLC? An LLC is a legal entity recognized in all 50 states, although each state has its own regulations governing the formation, running and taxation of the company. Like a corporation , LLC owners called members are protected from personal liability in case of debt, lawsuit or other claims, thus protecting personal property such as a home, automobile, personal bank account or investment. Unlike a corporation, LLC members can manage the LLC in whatever fashion they like and are subject to fewer state regulations and formalities than a corporation. All of this while providing the ability to maintain control over your assets. Estates worth less than this are considered exempt from the tax. This total resets each year, and the taxes are owed by the person giving rather than receiving the amount. Also, keep in mind: Considering this, the benefits of transferring wealth between family members with the use of an LLC starts to become more appealing. In this way, the parents maintain control over the assets and can protect them from financial decisions made by younger members. Gifts of shares to younger members do come under the gift tax, but with significant tax benefits that allow you to give more, plus lower the value of your estate. You then decide on how to translate the market value of those assets into LLC units of value, similar to stock in a corporation. Now you can transfer ownership of your LLC units to your children or grandchildren, as you wish. This discount is based on the fact that without management rights, LLC units become less marketable. Now your offspring can receive an advance on their inheritance, but at a lower tax burden than they otherwise would have had to pay on their personal income taxes, and the overall value of your estate is reduced, resulting in an eventual lower estate tax when you pass away. Now, instead of transferring 15 shares before having to pay a gift tax, you can transfer 25 shares. In this fashion, you can give significant gifts without gift taxes, all while reducing the value of your estate and lowering the eventual estate tax your heirs will face. Cash â€” you can transfer money from your personal bank accounts into the LLC, then distribute it amongst the LLC members. Property â€” you can transfer the title to land and structures built on that land into your LLC. Check with any mortgage holder prior to such a transfer, however, as you might need their approval. Personal possessions â€” you can transfer ownership of automobiles, stocks, precious metals , artwork or other significant belongings into your LLC. The Bottom Line A family-owned LLC is a powerful tool for managing your assets and passing them along to your children. Because estate planning is very complex, and the regulations governing LLCs vary from state to state and evolve over time, always check with a financial advisor before formalizing your LLC plan. Trading Center Want to learn how to invest? Get a free 10 week email series that will teach you how to start investing. Delivered twice a week, straight to your inbox.

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Chapter 6 : Talking About Estate Planning - Tips from Fidelity

We have enlisted the help of two of the nation's leading experts in this field - - estate planning attorney, L. Paul Hood, Jr. and Money Coach, Emily Bouchard - - co-authors of the book, Estate Planning for the Blended Family. Together, the two of them put together an updated 3-part series entitled, "Estate Planning for the Modern Blended.

Everything You Need to Know Family LLC estate planning is a method of protecting your assets and passing them on to your family members. Whether this is the best solution for your family estate planning purposes depends greatly on the value of your assets. LLCs and LPs allow people to give gifts to their family members. They also allow the donor to control the assets and protect them from creditors. Limited partnerships and limited liability companies are similar in nature. What Is an LLC? All fifty states recognize LLCs. However, every state has unique regulations for LLC establishment , operation, and taxation. LLCs are best understood as legal entities that combine characteristics of both partnerships and corporations. Owners of an LLC are called members. Unlike corporations, which are subject to extensive regulations, LLCs can be operated any way the members deem necessary. In addition to being advantageous to small-business owners, the hybrid nature of LLCs makes them a good choice for estate planning purposes. For income tax purposes, LLCs will usually choose to be treated as partnerships. An LLC created for estate planning will typically be manager-managed, which means that the owners will not manage the LLC themselves. Family LLC estate planning provides several benefits, including: Lifetime property protection Guarantee of assets transfer to family members Reduced taxes for you and your family Make sure to do a thorough research to decide if creating an LLC for estate planning purposes is the right choice for your family. With a family LLC, you can also transfer assets to your children during your lifetime without paying expensive gift taxes. Most people form a family LLC to avoid the estate tax. Below that amount, you will not need to pay the estate tax. The person giving the gift has to pay the tax. The asset limit resets every year. Fortunately, the asset limit is applied to individual recipients. Once the cap is exceeded, the gift tax will increase to forty percent, the same as the estate tax. Family Limited Partnerships And Similar Entities If you have a high net worth, a family limited partnership can be a good estate planning solution. However, these entities are often challenged by the IRS because they allow you to transfer assets between family members while reducing transfer taxes. If you create a business entity correctly, you will shield your valuable assets from transfer taxes. If you want to successfully reduce your potential transfer taxes, you have to make sure that your family business entity is properly managed and formed for a legitimate reason not related to taxes. UpCounsel accepts only the top 5 percent of lawyers to its site. Lawyers on UpCounsel come from law schools such as Harvard Law and Yale Law and average 14 years of legal experience, including work with or on behalf of companies like Google, Stripe, and Twilio. Was this document helpful?

Chapter 7 : Estate Planning: A Love Note to Your Family | LifeZette

Any time there is a change in the following â€” family circumstances, goals, domicile, financial wealth, tax law â€” your estate plan should be reviewed. Ideally, the estate planning process should not start with lists of assets and balance sheets, Magill says.

Some have trouble just thinking about what could happen if they should die while their minor children and spouse are depending on them. But even a healthy, young adult can be taken suddenly by an accident or illness, and those with young families need estate planning precisely because others are depending on them. Of course, you are not expecting to die while your family is young, but planning for the possibility is being prudent and responsible, and it shows your family how much you care. A good estate plan for a young family will include naming someone to administer the estate a trustee or executor , naming a guardian to care for minor children , providing instructions for the distribution of your assets, and naming someone to manage the inheritance for the children until they become adults. It will also include reviewing your insurance needs and planning for disability. Naming an Executor or Trustee for Your Estate This person will be responsible for handling your final financial affairsâ€”locating and valuing assets, locating and paying bills, distributing assets, hiring an attorney and other advisorsâ€”so it should be someone who is trustworthy, willing, able, knows you and will carry out your wishes. Naming a Guardian for Minor Children If something happens to one parent, the other parent will continue to raise the children unless he or she is physically or emotionally unable to do so. But who will raise them if something happens to both of you? This is often a difficult decision for parents, but it is very important because if you have not named a guardian, the court will have to appoint someone without knowing your wishes, your children or your family members. Providing Instructions for Distribution of Your Assets Most married couples want their assets to go to the surviving spouse if one of them dies. If both parents die and the children are young, they want their assets to be used to care for their children. Some assets will transfer automatically to the surviving spouse by beneficiary designations and how title is held. However, an estate plan is still needed in the event this spouse becomes disabled or dies, so that the assets can be used to provide for the children. This will likely be a friend of the judge and a stranger to your family. It will cost money, which will be paid from the inheritance. Also, the children will receive their inheritance in equal shares when they reach legal age, usually age Reviewing Insurance Needs Part of the estate planning process is to review the amount of life insurance on both parents. Income earned by one or both parents would need to be replaced; also, one or more people would probably be needed to take over the responsibilities of a stay-at-home parent. Additional coverage may be needed to provide for your children until they are grown; even more if you want to pay for college. Planning for Disability There is the possibility that one or both parents could become disabled due to injury, illness or even a random act of violence. This should be planned for, as well. Both parents need medical powers of attorney that give someone else legal authority to make health care decisions for you if you are unable to do so. You would probably name your spouse to do this, but one or two others should be named in case your spouse is also unable to act. HIPPA authorizations will give your doctors permission to discuss your medical situation with others parents, siblings and close friends. Disability income insurance should also be considered because life insurance does not pay at disability. Putting Your Plan in Place Estate planning will require you to think about family relationships and some decisions may be difficult. But an experienced estate planning attorney will be able to help you through the process, provide valuable guidance and make sure your plan will do what you want when it is needed. If finances are tight, as they usually are for young families, start with the most essential legal documents and term life insurance, then update and upgrade your plan as your financial situation improves. The most important thing is to not put this off. Once your plan is in place, you will have peace of mind that your family will be protected if something should happen to you.

Chapter 8 : Family LLC Estate Planning: Everything You Need to Know

"The bigger issue in estate planning for the majority of people is managing the step-up in basis on inherited assets and income taxes," says Matt Anderson, a certified financial planner and.

How to Pass Down the Family Cabin Although your modest family cabin and the idea of estate planning might feel pretentious, planning ahead to ensure that the retreat stays in the family is a smart move long-term. What is a Cabin Plan vs. A cabin plan is an extension of an estate plan. Most estate plans will address planning for incapacity, estate administration, asset distribution, taxation, and other planning considerations. But rarely will an estate plan cover the issues related to passing down the ownership and management of the family cabin property. For those of you who have not yet planned your estate, I encourage you to do so. Otherwise, the uncertainties of life and death can create problems, stress and even conflicts within your family and adversely impact the passing down of your cabin. In doing so, cabin owners should involve the entire family in the planning process. In addition, cabin owners should confirm that each prospective new owner actually has an interest in becoming a cabin owner! However, factors such as financial considerations, geographic distance, and time can impact the desire to become an owner. Because the prospective new cabin owners often have differing financial resources, family size, marital status, and opinions, these differences must be considered while forming the cabin plan. If the plan fails to take these differences into account, chances are that conflict will arise, jeopardizing your best laid plans for your heirs to peacefully share the family cabin. As expected, there is no one-size-fits-all planning option or form of ownership for the transfer and management of cabin property. The following are common forms of ownership used for purposes of cabin succession. See also Managing Lake Weeds at Your Cabin Direct Transfer of Ownership A direct transfer of ownership from one generation to another is the most common form of ownership conveyance. Direct transfers are simply made by conveying an interest or ownership share in the cabin by deed from one owner to another. This can be handled in different ways, including: Joint tenancy with rights of survivorship: The primary benefit of a direct transfer of ownership is the ease of the transaction. A direct transfer occurs by drafting and recording a deed transferring a cabin interest typically to just one new owner , and there is little cost involved. Under certain circumstances, direct transfers can also have negative consequences. For instance, direct transfers offer little or no protection from creditor claims and divorce of a new interest holder. The direct transfer method also lacks methods for resolving disputes or transferring interests for example, when a new owner wants out. Cabin trusts Another vehicle for passing along cabin property is a trust agreement. There are several forms of trusts that can be utilized for a cabin plan. Trusts can be either revocable or irrevocable, and there are several important considerations that may dictate which form of trust is right for your family. It is important to consult your attorney and review the different forms of trusts and their application to your circumstances and objectives. The trust agreement is the governing document for a trust. It is an excellent tool for laying out the terms of the agreement between the new cabin-interest holders the trust beneficiaries. Trusts are also popular because estate planners are familiar with trust agreements, and trusts have fewer legal formalities than business entities below do. Finally, trusts are commonly utilized because they are less expensive to draft and implement than more detailed ownership options, such as family business entities. The negative consequences of trusts generally deal with the lack of flexibility when administering a trust. Certain forms of trusts cannot be amended to address changes in circumstance among the beneficiaries or with the cabin property for instance, who is allowed to vote on changes to the trust agreement. Trusts also can be cumbersome for dispute resolution and property management. When compared to other forms of ownership, trusts can have inferior liability protection for family members. It has been frequented by Ed and Edna Olson, their three adult children and several grandchildren. Olson did not foresee any difficulties with the succession of ownership and management of the cabin. But, over time, one child began paying most of the taxes and maintenance costs and spent a lot of time and effort on maintenance. Few improvements were needed, but a new roof may be necessary in the future. The other two children justified to themselves that their brother, a physician, had the best ability to pay the costs due to his financial resources. Further, they claim that he used the property the most, given his proximity and that of his children. The second adult child lives on the East Coast and rarely uses the property with the exception of the week of the Fourth of July. Given the differing perspectives, economic considerations, lack of space and use conflicts, trouble is brewing for the Olson family cabin. If Ed and Edna put more thought into the succession of the cabin and discussed these issues with their children, much of the conflict and uncertainty could have been avoided. A cabin plan could have settled these issues in advance and set forth a path for future use and enjoyment by those who desired the opportunity. The transfer of an asset from the estate to the beneficiary. An instrument of conveyance used to transfer an interest of real property. The property and rights of a decedent which exist prior to the distribution of that property in accordance with a will, trust or pursuant to applicable intestacy provisions under state law. The process of settling an estate. It involves the inventory and valuations of assets, the payment of expenses and taxes, and the distribution of the remaining assets to the beneficiaries. An individual who establishes a trust and transfers property to the trust. A share of the ownership of a property. A form of trust which cannot be revoked, amended or cancelled. Joint Tenancy with Rights of Survivorship: A form of property ownership where two or more individuals own an equal and undivided interest in property. When a joint tenant dies, the surviving joint tenant s acquires the interest of the deceased joint tenant. A conveyance in property where the life-interest holder retains rights and benefits of ownership during their lifetime, or the life of another, with the property going to the remainder-interest holder after the death of the life tenant s. A business structure allowed by state statute where the owners have limited personal liability for the debts and actions of the entity. In essence, the liability is limited to the property contributed to the entity. An LLC is treated as a partnership for tax purposes and receives the benefit of pass-through taxation. A form of trust which may be revoked, amended or cancelled by the grantor s. A form of property ownership where two or more individuals own an interest in property. One tenant may have a larger share of the property than the other tenant s. Tenants in Common Agreement: An agreement between tenants in common used to establish the rights of each tenant in the property they share in common. A relationship where a grantor transfers property to a trustee to be held, administered and distributed for the benefit of the trust beneficiaries. A person who assumes the responsibility to administer a trust for the benefit of the beneficiaries of the trust. A trustee is a fiduciary who generally owes the highest duties to the beneficiaries of the trust. Direct Transfer of Ownership Pros: An easy transaction; low cost to establish. Excellent tool for laying out a road map of agreement between the new cabin-interest holders; estate planners are familiar with them; simpler fewer legal formalities than LLCs; low cost to establish. Inflexible; cumbersome for dispute resolution and property management. Its formalities makeit complex; costly to establish andmaintain TIPS: With all forms of ownership transfer,there may be income-, gift- and estate-tax implications. Prior to executing thetransfer, there must be a complete analysis of the estate, gift, income andproperty taxes to prevent unintended tax consequences. First, it is important to remember that this option involves the formation of a business entity which is organized and registered pursuant to state law. Thus, there are formalities necessary for the formation of the entity as well as routine filings on an annual basis. Next, state statutes require that the entity have a business purpose. While most families use their cabin solely for personal purposes, a common business purpose inherent in most cabin planning scenarios relates to the business interest of holding real property for the future appreciation of said property. Another example of a business-related factor is the rental of the cabin or cabin property. There are several advantages in utilizing an LLC for the cabin plan. Other forms of ownership, such as trusts, must have a defined existence for a number of years based on state statutes. Another benefit of an LLC is that the LLC structure is much more flexible for purposes of amending the structure of the plan and the controlling documents. Often, there is a need to alter the structure of ownership of the entity due to changes in family circumstances over time. The changes may impact the overall management provisions of the entity governance or the operational provisions the day-to-day property maintenance and improvements. Either way, the ability to make these changes is very appealing to some. The ease in ownership transfer is another benefit of an LLC. These entities most often document ownership by membership units or member shares. Upon formation of the entity, the cabin property is retitled in the name of the LLC. Thereafter, the original owners of the cabin property can give or assign interests in the entity in one transfer or in several transfers over time. This allows the original cabin owners the flexibility to retain control during their lifetime if such retention is desired. The governing agreement for an LLC is most typically an operating agreement. The operating agreement sets forth the management provisions and the basic rules for the entity. These provisions often include the responsibility for payment of operating expenses; procedures for transfer of member units or shares; duties and responsibilities of regular maintenance, budgeting, and approving property improvements; developing and enforcing use schedules; and outlining the governance related to decision making and dispute resolution, among other considerations. As noted above, the ability to change these provisions over time due to change in circumstance can be very useful in furthering the succession of the property and the cabin plan. These provisions are intended to accomplish several objectives, such as preventing a sale to an outside party without the agreement of the ownership, and determining the methodology for transfer, valuation and payment provisions in the event of a bona fide sale. Another benefit of the LLC structure is creditor protection. In general, members or owners of an LLC have significant protection from personal liability as it relates to the entity or property owned by the entity. For instance, if there is an accident at the cabin which causes personal injury to a third party, the owners of the LLC may not be sued personally for that injury.

Chapter 9 : Estate Planning: How to Pass Down the Family Cabin

While the development of an estate plan can be difficult for any family, for a family of a person with a disability, the planning, as with all things, has added complexity. Primary caretakers of a loved one with a disability routinely wonder who will care for, love, and financially support their family member when they are gone.

Not only is it important that you have a plan in place in the unlikely event of your death â€" you must also implement your plan and make sure others know about it and understand your wishes. These include things you own on paper or other entitlements that are predicated on your death. Items listed here would include: This should include everything such as auto loans, existing mortgages, home equity lines of credit , open credit cards with and without balances, and any other debts you might owe. A good practice is to run a free credit report at least once a year. It will identify any credit cards you may have forgotten you have. Include any other charitable organizations that you proudly support or make donations to. In some cases, several of these organizations have accidental life insurance benefits at no cost on their members and your beneficiaries may be eligible. Send a Copy of Your Assets List to Your Estate Administrator When your lists are completed, you should date and sign them and make at least three copies. Keep the last copy for yourself in a safe place. Review IRA, k and Other Retirement Accounts Accounts and policies in which you list beneficiary designations pass via "contract" to that person or entity listed at your death. Contact the customer service team or plan administrator for a current listing of your beneficiary selection for each account. Review each of these accounts to make sure the beneficiaries are listed exactly as you like. Many accounts such as bank savings, CD accounts and individual brokerage accounts are unnecessarily probated every day. Probate is an avoidable court process through which assets are distributed per court instruction, which can be costly. Many of the accounts listed above can be set up with a transfer-on-death feature to avoid the probate process. Contact your custodian or bank to set this up on your accounts. Select a Responsible Estate Administrator Your estate administrator will be responsible for following the rules of your will in the event of your death. It is important that you select an individual who is responsible and in a good mental state to make decisions. Create a Will Everyone over the age of 18 should have a will. It is the rulebook for distribution of your assets and it could prevent havoc among your heirs. Wills are fairly inexpensive estate planning documents to draft. Make sure that you always sign and date your will, have two witnesses sign it and obtain a notarization on the final draft. If you have a family, Advice on Wills: Should Each Child Get the Same? Life is constantly changing and your inventory list is likely to change from year to year too. You should also keep a copy in a safe-deposit box and in a safe place at home. As you get older, life throws new curveballs at you, such as figuring out whether you need long-term care insurance and protecting your estate from a large tax bill or lengthy court processes. Tips like having an emergency medical contact card in your purse or wallet are little things many people never think of that an expert can help you learn. While none of us likes to think about dying, the fact of the matter is that improper or no planning can lead to family disputes, assets going into the wrong hands, long court litigations and huge amounts of dollars in federal tax. At minimum, you should create a will, power of attorney , healthcare surrogate, and living will â€" and assign guardianship for your kids and pets. Also make sure that all the concerned individuals have copies of these documents. Take Advantage of College Funding Accounts The plan is a unique tax-advantaged investment account for college savings. The really nice feature is that growth and withdrawals from the account if used for "qualified" education expenses are tax-free. If you have grandchildren and the assets to do it, consider opening a plan for each grandchild. The Bottom Line Now you have the ammunition to get a pretty good jump-start on reviewing your overall financial and estate picture; the rest is up to you. Trading Center Want to learn how to invest? Get a free 10 week email series that will teach you how to start investing. Delivered twice a week, straight to your inbox.