

Publication: Daily Sound
Section: Ask S&B
Date Written: 6/5/09
NPC #: 40809
Contact: Brad Stark, bstark@missionwealth.com, 805-690-3901

Title: The Day After (Estate Planning)

You receive that dreaded phone call that a family member has passed away. What happens next is a mixture of emotional and legal requirements that must be fulfilled and it can be daunting. We are going to walk you through what typically happens so that you can prepare appropriately.

It is not out of the ordinary for burial arrangements not be planned for in advance. You would hope that the deceased left a clearly identifiable letter of instructions but often times that is not to be found or at least not easily discovered in a timely manner. This is the first problem which can arise as family members may have differing opinions on what should be done. Once the instructions are given to the funeral home, we also suggest that you order at least as many original death certificates as the deceased owned property or established accounts at various financial institutions. These originals will be necessary in order to facilitate future transactions and it is far easier to order them at this time than have to go back to the state in the future.

If the deceased had only a Will, then most likely a probate will have to be opened with the court unless the person had very low asset levels. An attorney will be retained to properly abide by the court processes and this course of action can be long, expensive and very public. Probate can be avoided by implementing a Trust which gives directions to those who follow and they are generally created to avoid the court system and to keep matters private. Regardless if a Will or Trust is involved, an Executor or Trustee will be named in the document and that person(s) is responsible to carrying out the actions described in the papers.

The responsibilities of a Trustee generally start with putting together an inventory list of the estate. Appraisals are ordered for various items of undeterminable value (i.e. art work, collectibles, real estate, etc.) and a balance sheet of assets and liabilities is created. Insurance claims are made. Beneficiaries are identified for various accounts (i.e. retirement plans and annuities). This information is shared with the attorney and the CPA and then determinations are made as what to do next.

If the asset values are higher than the unified credit exemption (\$3.5 million this year), then estate taxes are owed and a rather cumbersome IRS form 706 needs to be filed or put on extension within nine months of death. As you can imagine, this process can be daunting and time flies by very quickly. All the while, grieving also needs to have its time and place in this process.

One of the biggest problems we see in estates has to do with personal property. Can we highly suggest that you have discussions with your children and please document your desires on who gets what as it pertains to the antique in the hallway or the family picture and especially the jewelry. All too often families are split apart because of fights over personal property. And it is all too common for the “local” child to gain access to the house first and can cause all types of problems as items sometimes “disappear.” All of this can be avoided with a clear inventory of personal objects and a list of who gets what. Let your children know where the list is located and give a copy to your advisors for safe keeping as well.

Once all the assets are inventoried and values are assigned, it is time to distribute money to the beneficiaries and pay necessary taxes. Depending on the document, assets may be held in Trust for many years to come or partial to outright distributions are done. The distribution structures can vary widely. Very simple to elaborate structures may be created depending on the size of the estate, the needs of the children, family dynamics, charitable desires and by a large extent, tax minimization strategies.

There are several general expectation rules you should understand - when clear up to date documents govern the estate, the smoother the transition. The larger the estate or situations with complicated assets (i.e. privately held stock, family businesses, etc.), the longer the process. For estates larger than \$3.5 million, it is fairly common for this administration to take anywhere from six to eighteen months to complete. However, for even small estates, it is very common for it to take months and even longer if probate is involved. Regardless of the structure, the process is further extended if fights between beneficiaries take place. However, we generally see infighting significantly reduced when documentation is very clear.

You should revisit your estate plans every few years to make sure they are still accurate and reflective of your intentions. Though many people do not like to discuss these matters with their children, it is often times best to at least talk about who the Trustees will be, where to find documents and especially your desires as it pertains to your personal property and burial wishes. It is always best to document these desires and to make sure your advisors have copies as back up.

Questions can be submitted to asksb@missionwealth.com or the authors can be reached at www.missionwealth.com.

Author's Note: Brad Stark, MS, CFP, AAMS, CMFC and Seth Streeter, MS, CFP, CEA, Co-Founders of Mission Wealth Management, LLC, a Registered Investment Advisor. The information contained in this article is general in nature and should not be construed as comprehensive financial, tax, or legal advice. As with any financial or legal matter, consult your qualified securities, tax, or legal representative before taking action. Securities offered through National Planning Corporation, Member FINRA/SIPC. NPC and MWM are separate and unrelated entities.