

Do your homework to find right attorney



Estate-Plan Edge
By CURT FERGUSON

THE most common question I hear as I speak around the state is, "How do we find the right estate-planning attorney to help us?"

While there is no simple answer, knowing what questions to ask will help you find the right professional for your family.

Ask these questions about all three phases of planning to size up an attorney who will be the key individual in charge of drafting an estate plan that fits your particular situation.

Phase 1: Plan creation

"Will you tell me about your interest, background and experience in estate planning for farmers?" Plenty of attorneys focus strictly on estate planning, so you don't need to work with a generalist.

"How do you define estate planning?"

Many pros see estate planning as merely probate and tax avoidance. The right attorney will help with that, but will also focus on ways to achieve your personal and family goals, preserve relationships, and pass wisdom from the elder generation to the younger.

Key Points

- Carefully choose an attorney to help you draw up a plan that fits your situation.
- Ask questions about all three phases of estate planning.
- Early in the process, ask your attorney to quote a set fee for a plan.

"How do I prepare for a consultation?" An experienced attorney will have detailed checklists and instructions to prepare you. Some offer workshops to educate you on planning opportunities so you can be better prepared before you sit down with them while the "meter is running."

"How will you counsel me in designing my plan?" Many attorneys simply ask a few vague, open-ended questions. Then they steer you into their favorite one-size-fits-all generic document. Other attorneys will invest the effort and time to educate you, offer a wide variety of outcomes, and follow your interests until each decision is tailored to your wishes.

"How much will you charge to create the plan?" Remember all three planning phases; don't just focus on getting a document. Hourly fees will make you hesitant to explore alternatives. An experienced attorney will commit plenty of time to you, and early in the process

can quote a set fee for plan; then nobody will nervously watch the clock!

Phase 2: Updating

"How do you ensure that my assets follow the instructions we put in my plan, and who is responsible for this?" Mistakes in this area are what cause most wills and trusts to fail to meet the makers' expectations. Joint ownership will make assets avoid the will or trust. Naming individuals as beneficiaries on life insurance, annuities or retirement accounts causes those dollars to circumvent the plan. Your attorney should review every asset and help you align the ownership (titling) of each asset to follow your plan.

"What about the assets I acquire later?" What you own today is not all you ever will, so consider how the attorney will ensure that future assets are aligned with the plan.

"How do we keep my plan current, and how much will that cost?" Tax laws alone change about every two years; other laws continually evolve. Updating your documents every five or 10 years just won't do! Find an attorney who will systematically update your plan on a predetermined schedule — every year or two is appropriate — for a predetermined fee. Just like routine maintenance of equipment, routine

estate-plan maintenance saves you money in the long run.

Phase 3: The transfer process

"How will you involve my family? Do you educate and prepare them for the transfer of my farm?" In order for your family to stay in control of the process and the costs, they need to prepare before your death.

"What's your track record on avoiding probate?" Living-trust attorneys tout these trusts as the way to avoid probate; but many, perhaps most, living-trust estate plans don't! Make sure you ask how this particular attorney is doing.

"How much will you charge my family to carry out the plan at death?" An experienced attorney will give you a firm estimate or at least disclose a fee schedule so your family won't be at his or her mercy later. (Typical administration fees start at around 1.5% for large estates, growing to 3% on smaller farms; trust administration usually costs half to three-fourths as much.)

The right attorney will welcome these questions, and won't squirm when answering them.

E-mail questions or topics you'd like addressed in future issues to Ferguson at curt@tlcplanning.com or go to www.tlcplanning.com.

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