

Stay in touch with your estate plan



Estate-Plan Edge

By CURT FERGUSON

Editor's note: This is the final part of a three-part series exploring the reasons why most estate plans don't work.

WE began this series with the observation that "Most estate plans don't work." But with the right approach and commitment, your plan can.

Your plan does not work unless it accomplishes your goals. We explained in April that most people have little idea how much their planning could accomplish, so they limit their goals to what they know about. They "order a burger," unaware of hundreds of items available on the "buffet" (for the same price). We explained in May how plans fail over time. Many people create legal documents, but fail to align the legal ownership of their assets, and they let their legal documents fall out of date.

The final major cause of failure is insufficient education.

Never has estate planning been more technical than today. Knowing how your estate plan works is more important than ever before, especially if you want to control your legal fees. The first area where education is needed is before you decide what you want to accomplish. Then you need continuing education to keep you in touch with your plan.

For starters, a typical married couple needs the following ongoing education:

- remembering how to title new assets
- learning about new tax laws that might affect you
- keeping your estates balanced appropriately to limit liability risks
- learning about new opportunities that might provide benefits to you

Recent IRS rulings, for instance, allow a married couple to plan so that after the death of the first, their entire, combined estate will be protected from lawsuits, a new spouse or even the nursing home costs of the survivor. In my firm, we bring ideas like this back through ongoing client education.

Training the heirs

Although it may sound strange, most beneficiaries (the children) don't know how to receive an inheritance. First, they need to understand the process of transferring the estate according to the parents' plan. That process involves many steps. The average person appointed as executor or trustee is doing the job for the first time, with no experience in settling estates and no formal training for the task.

A trust doesn't just "automatically" distribute the property to the beneficia-

ries. The appointed trustees must carefully value and account for all assets, report tax matters to the IRS, ensure that debts are all paid, and then distribute what is left strictly according to the trust terms. Other heirs also need some pre-training so they will be patient, with realistic expectations.

The estate plan might include various layers of protection. Keeping the inherited farm safe from divorce or a

lawsuit, for instance, depends both on how the parents wrote the plan and on how each heir handles their share. Unprepared heirs will fumble the inheritance right into "enemy" hands.

Plans can work

Knowing what is possible leads to a plan built on your real desires. Proper attention to funding and maintenance keeps your estate following your plan.

An ongoing and growing understanding of your planning assures that you and your heirs will realize all the available benefits. Finally, a smooth settlement of the estate comes from a comfort level instilled through family pre-education. Your estate plan can work!

Ferguson is an attorney from Salem.

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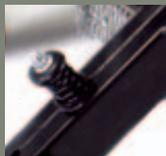
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