



THE E.P. EXPRESS

FOS's Estate Planning Newsletter
An ounce of prevention. . . .

Editor: Diane Slomowitz

WELCOME TO THE E.P. EXPRESS!

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Fox, O'Neill & Shannon is pleased to present the inaugural issue of *The E.P. Express*, FOS's estate planning newsletter. This newsletter supplements the firm's premiere newsletter, *FOS News*, which FOS will continue to publish quarterly.

Estate planning issues touch all aspects of our lives. How do I best leave my assets to my family or, if not to them, to my chosen beneficiaries? How can I insure that my estate, which I have worked so hard to grow, won't be eaten up by taxes, to the detriment of my loved ones? Who will make medical decisions for me if I can't do it myself?

The E.P. Express will address these and other estate planning issues. If you would like to see articles on particular subjects, let us know at info@foslaw.com. As always, your FOS attorneys remain ready to help you create or review your estate plan. We hope you find *The E.P. Express* informative and entertaining.

**EVERYONE---THAT INCLUDES YOU-- NEEDS
A COMPLETE ESTATE PLAN**

If there is one thing that every attorney, accountant, tax advisor and medical professional agrees on, it is that everyone should have up-to-date, fully executed estate planning documents.

The reason for this uniformity of thinking? These practitioners have seen, first hand, the dire results occurring when estate planning is neglected.

Here is a short description of the most common estate planning documents and why each is essential:

The Will. Under most states' intestacy laws, which govern an estate's distribution when a person dies without a will, 100% of a deceased person's estate goes to the spouse. If there is no spouse, 100% goes to the children; if no children, the parents; if no parents, the siblings, etc.

While this might be how the deceased would want his estate to be distributed, often it is not the desired route. A will easily insures that assets go where a deceased wanted them to go.

This includes distributions to family members in unequal amounts, or to charities, churches or non-family members.

The Trust. Under the law, when a person dies without estate planning documents, a beneficiary receives his distribution in one lump sum as soon as the estate is settled.

Take the example of a couple with two sons, ages 20 and 16. The couple is killed in a car crash, and their total estate is worth \$300,000.

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**PORTABILITY—A BIG
WORD FOR POTENTIALLY
BIG ESTATE SAVINGS**

One main result of the fiscal cliff crisis that enveloped the country at the tail end of 2012 was the passage of the American Taxpayer Relief Act of 2012.

The law addressed many of the sun-setting estate, gift and generation-skipping tax exemption limits.

Arguably, however, the most important provision of the law is the one that makes "portability" permanent.

Originally passed in 2010, portability allows a surviving spouse to claim the unused estate tax exemption of a pre-deceased spouse. The estate tax exemption is the amount a person can give away during his lifetime or at death without paying federal estate taxes.

Without Portability

Before 2010, a surviving spouse could not claim his or her deceased spouse's exemption.

The following is an example of how taxes would be determined on an estate without portability.

Assume Husband and Wife have all of their assets jointly titled and their net worth is \$8,000,000.

Also assume that the federal estate tax exemption is \$5,250,000.

When Husband dies, his estate will not need to use any of his \$5,250,000 estate tax exemption, because there is an unlimited marital deduction for transfers between a deceased spouse and

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Everyone Needs A Complete Estate Plan, continued from page 1

Once the estate is settled, the 20-year-old will receive \$150,000 outright. A guardian will be appointed to protect the 16-year-old's share for 2 years. On his 18th birthday, which could occur as he gets ready for Senior Prom, he will receive his \$150,000 distribution.

What chance would these two kids have to make sensible use of these large sums of money distributed to them at their young ages?

A trust easily handles this. Trusts commonly hold distributions to children in trust until they reach practical (versus legal) maturity. The trustee, usually a relative/friend familiar with handling finances, is empowered to use the trust funds for the children's schooling and general welfare.

Trust language often provides for trust principal to be distributed when a child reaches an age giving him a better chance of responsibly handling the funds, such as one third at 25, one third at 30, and the rest at 35.

Powers of Attorney. Powers of attorney, a routine part of estate plan drafting, allow an individual to appoint a spouse, family member, or friend as his "attorney" to handle his finances if he becomes disabled.

Without a power of attorney, a disabled person's family would need to have the court appoint someone to handle the person's affairs.

This cost and disruption, plus having a judge (as opposed to the disabled person) decide who should be the attorney, can easily be avoided by having signed powers of attorney in the estate planning file.

Medical powers of attorney. Medical professionals in particular are adamant that everyone should have an executed medical power of attorney.

Stories we have all seen in the press reinforce how wrong things can go when a hospitalized or incapacitated individual's wishes are not reduced to a written medical power of attorney.

Without it, doctors, nurses and family members are left no direction as to what decisions to make for a disabled family member.

With it, the confusion, stress and conflict that often arise from this situation can be easily and preemptively resolved.

* * *

The slogan for our Fox, O'Neill and Shannon Estate Planning Newsletter is "an ounce of prevention. . ." Most of us first heard that adage from our mothers when we were small children.

There may be no area of life where this saying is more true, than in reminding us all to have up-to-date estate planning documents.

These documents are not difficult to put in place; and doing so can prevent horrendous problems down the road.

It's time for you to take care of yourself and your family. FOS's estate planning professionals are waiting for your call.

FOS'S ESTATE PLANNING ATTORNEYS



FOS shareholder Allan Young.

A Certified Public Accountant (CPA), Al worked at the Big 8 Arthur Anderson accounting firm for several years before joining FOS in 1986.

Al serves on the Board of the Wisconsin Bar Association's Taxation Section and is a member of the Wisconsin Certified Planners Association's State Taxation Committee.

He is a past Chair of the Association's Board, and served as chair of the Milwaukee Bar Association's Taxation Section.



FOS shareholder Gregory Ricci.

Greg spent several years working at the Big 8 Arthur Anderson accounting firm. He is a CPA.

Greg has served on the Board of the Wisconsin Bar Association's Taxation Section. He has also served on the American Bar Association's Fiduciary Income Tax Committee.

In 2013, Greg was appointed a member of the influential Greater Milwaukee Foundation's Herbert J. Mueller Society.

Greg is also a member of the Milwaukee Estate Planning Forum.



FOS associate Peter White.

Peter worked at the Big 4 Deloitte Tax, LLP accounting firm before joining FOS. He earned a CPA in 2010.

Peter specializes in estate planning and tax. He is a member of the Real Property Probate and Trust section of the Wisconsin Bar Association.



ARE OUR CHILDREN READY TO RECEIVE THEIR INHERITANCE?

When many of us left for college, we vowed to never again live with our parents.

We would visit, from far away. We would finish our education, get jobs, make our own money and live our own lives. With a few bumps, that's what happened.

The world is different now. The economy is just recovering from the Great Recession. Jobs are hard to come by for everyone. Social media has transformed society into one of instant gratification—spend now, worry later.

In addition, there is a recent onslaught of young adults returning to the nest—the spare bedroom, the study, the garage.

Estate planning trust documents have historically provided for children to receive, outright, one third of their inheritance at ages 25, 30, and 35.

That strategy has worked well for many families over the years.

But times continue to change. Now may be the time to consider (or reconsider) whether your children, will really be financially mature enough to handle an inheritance at 35, much less 30 or 25.

Perhaps it would be more appropriate to have your child wait until he is 30, 35 and 40, or even 35, 40, and 45, to receive his funds. Or maybe one lump sum distribution at age 40 or 45 would be best.

Only you know your family's circumstances, including your children's personalities and financial status.

That is why periodic review of estate planning documents is so important. It is also why creating an estate plan in the first place is crucial.

So, work with your FOS attorney, either to review your existing estate plan or, if you don't have one, to create one.

GIFT TAX NUTS AND BOLTS

A gift tax is a federal tax, paid by the giver, on a statutorily defined "gift"—any direct or indirect transfer to an individual without full consideration. "Gifts" do not include tuition or medical expenses, gifts to a spouse, political organization or qualifying charity, or gifts that are less than the defined annual exclusion for a calendar year.

For 2013, the annual gift tax exclusion is \$14,000 per recipient. You can give up to \$14,000 (in one sum or in multiple, smaller amounts) each to your brother and your sister without having to pay tax.

Although you may make certain gifts tax free, the amount of these gifts reduces the federal lifetime Estate Tax Exemption. That exemption is described in the "Portability" article on this newsletter's first page.

surviving spouse.

Also assume that, when Wife dies, the federal estate tax exemption is still \$5,250,000, the estate tax rate is 40%, and Wife's estate is still worth \$8,000,000.

Wife can only pass \$5,250,000 to her heirs tax free, and will owe tax on the remaining \$2,750,000.

At a 40% rate, the federal estate tax incurred would be \$1,100,000.

With Portability

Now, assume the same basic facts as above, except portability is in effect.

When Husband dies, his estate still does not have to use any of his \$5,250,000 estate tax exemption, because of the unlimited marital deduction.

Wife will file an estate tax return and claim Husband's unused exemption amount.

When Wife dies, Wife will have an exemption of \$10,500,000 (her \$5,250,000 and Husband's \$5,250,000), because Wife "ported" Husband's unused exemption.

Since Wife's estate of \$8,000,000 is less than her total exemption amount, the entire estate can be passed on free from federal estate tax.

In this example, portability saved over a million dollars in taxes.

* * *

Portability, and estate taxes in general, raise complex issues. FOS's estate planning attorneys have the knowledge and experience to handle these and other estate planning matters.

If you have questions regarding the availability or usefulness of portability to your or a loved one's situation, contact your FOS attorney.



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IS IT TIME TO REVIEW YOUR ESTATE PLAN?

We at Fox, O'Neill & Shannon are frequently asked, "How often do I need to review my estate plan?"

The short answer is that you should review your existing estate plan whenever a significant life event occurs which may impact it.

Examples include marriage; the birth of a first child; divorce; significant changes in your financial situation; and the death of a beneficiary.

Otherwise, we generally recommend that estate

plans be reviewed every 5 years.

One of the benefits of the estate plans prepared by FOS's attorneys is that they are drafted to be broad and flexible.

They are designed to remain effective even after major tax law changes occur.

For instance, very few of our clients' estate plans needed revisions as a result of the many estate tax law changes during the past few years.

FOS's attorneys draft your plans so that they are flexi-

ble enough to continue to work well to maximize tax protection under such circumstances.

Similarly, where parents set up a trust to benefit their first child, FOS's attorneys draft the trust broadly enough to include any future children the couple may have.

This means that already busy parents don't have to make revisions to their plans as each new child arrives.

On the other hand, where an estate plan does not account for children at all, it

will need to be revised when children do arrive.

Your estate plans, like many other facets of life, should be revisited periodically to assure they operate as you desire.

Updates usually are not complicated and take very little time.

Contact your FOS attorney about reviewing your plan.

QUESTIONS?

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