



*Have You Done
Proper*

ESTATE
planning?

Introducing the
Three Step Strategy™
for Estate Planning

What is Proper Estate Planning?

Proper Estate Planning allows you to plan for yourself and your loved ones without giving up control of your affairs. Your estate plan should allow for the possibility of your own disability. It should give “what you own to whom you want, when you want, and the way you want”. Your estate plan should include fully disclosed and controlled costs for you, and for those you love.

Two Problems with Traditional Estate Planning

THE FIRST PROBLEM IS THAT MOST ESTATE PLANS ARE UPSIDE DOWN.

We see the planning process as a pyramid (see Fig. 1). The pyramid’s foundation is the thorough understanding of your needs, goals, dreams and aspirations. Most people want to be sure that they (and their spouse if married) are taken care of now, and throughout their retirement years.

Next, we need to have a thorough understanding of family members and family dynamics – those people that you care about and who will someday receive the benefits of your success. For some people, family includes children and grandchildren. For others, it may be nieces and nephews, friends, or community.

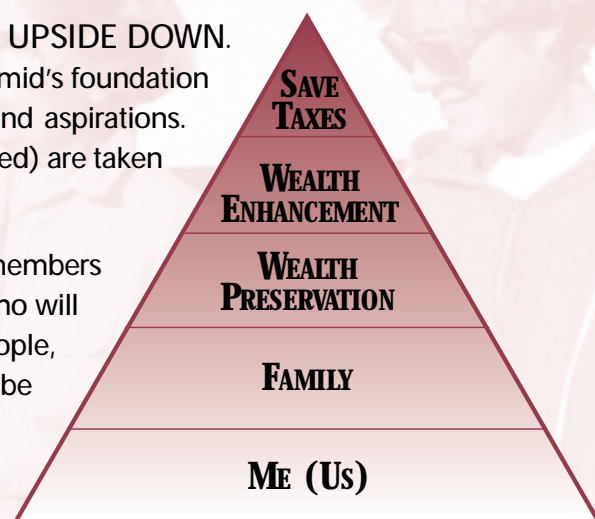
You are the expert on family matters. We depend on you to teach us about your family. We’ll teach you about the law.

After the foundation of the pyramid is laid, it is appropriate to discuss wealth. We find that most of our clients first want to protect and preserve the wealth that they have, and then are also interested in enhancing that wealth.

The final building block of the pyramid is made up of strategies and tools to save taxes. Like the last piece of a jigsaw puzzle, this is the easiest piece to fit in – if all of the proper groundwork has been laid.

When we say that most estate plans are upside down, we mean that most are built on tax planning instead of family planning! Personal family concerns and goals are relegated to a lower priority instead of being the very foundation of the plan.

We believe that by planning according to the pyramid, we can better focus on client goals and create solutions that will ultimately make the planning easier and more effective.



The Planning Pyramid[™]

THE SECOND PROBLEM with traditional estate planning IS THAT MOST ESTATE PLANS JUST DON'T WORK!

We know an estate plan works when every expectation that the client had in mind when they began planning is completely met. Of course, it's really the family members who will see the results.

Why don't most plans work? We believe it's because many clients and professional advisors see estate planning as being transactional. They say, "I did my estate plan." In reality, estate planning is a process, not a transaction. Because everything constantly changes, your plan must be changing too.

The Importance of Title

Everything in estate planning comes down to title. Personal protections depend on title. Tax savings depend on title. In other words, you and your family only receive the benefits of your planning if your planning controls your wealth. Control comes from title.

There are basically three types of title: Individual Name, Joint Name and Contract. Joint Name property includes tenancy in common, joint tenancy with rights of survivorship, and in some states tenancy by the entirety. Contracts include beneficiary designations (such as on insurance and retirement plans) and trusts.

Assets owned in individual name are the only assets that are controlled by a will. Jointly owned accounts and beneficiary designations are controlled by operation of law. Only assets owned by a trust are controlled by the instructions of that trust.

The Pitfalls of Jointly-Owned Property

- Your joint tenancy property can pass to unintended heirs.
- Joint tenancy does not avoid probate, it only delays it.
- There may be unintended gift and estate taxes if joint tenancy is used between non-spouses or with children.
- The joint tenancy property may be subject to your joint tenant's creditors.
- Joint tenancy makes no provisions for estate tax planning.
- Joint tenancy doesn't allow you to give your property to whom you want, the way you want, and when you want.

The Pitfalls of Planning with a Beneficiary Designation

- Designating your beneficiaries on a standard business form "beneficiary designation" often means losing control of a major part of your estate. It does not enable you to leave instructions or provide guidance to your loved ones.
- Oftentimes the wrong beneficiary is named in the beneficiary designation.
- A beneficiary designation won't protect your spouse and children from creditors or unscrupulous people.
- Equal distributions from a beneficiary designation can cause unequal results that won't meet your family's special needs.
- Beneficiary designations make no provision for federal tax planning.



The Pitfalls of a Will

- Wills guarantee probate – which can generate executor and attorney fees and cause much time delay before your loved ones can receive their inheritance.
- Wills are fully public. They are open to inspection by anyone who wants to know about your will and affairs.
- Wills offer no planning or direction for you or your family in the event of your disability.
- Wills are easily challenged by unhappy relatives.
- Wills most often don't control their makers' life insurance proceeds, retirement benefits, or jointly-owned property.
- Wills are often bare-bones form documents written in hard-to-understand language. They don't capture the hopes, fears, dreams, values and ambitions of their makers.
- Wills may not be effective when their makers move to or own property in another state.

The Pitfalls of a Trust

- Although most living trusts appear to be better than wills, they are about the same as wills if not fully funded, because they do not avoid probate.
- Most living trusts are sterile legal forms that do not contain instructions for loved ones. They only accomplish limited objectives.

The Estate Planning SOLUTION: The Three Step Strategy™

It's not about documents – It's about results! The key to proper estate planning is clear, comprehensive, customized instructions for your own care and that of your loved ones. These instructions can be included in a will, a trust, and in several other related documents. We find that most of our clients are best served with a combination of these tools, backed up by the Three Step Strategy.™

Step 1: *WORK WITH A COUNSELLING-ORIENTED ATTORNEY (as opposed to a word processing-oriented attorney).*

We fear that much of what passes for estate planning in this country is little more than word processing! We don't believe you should pay a licensed professional to do word processing. Their value is in their counsel and advice, based on knowledge, wisdom, and experience. If word processing is all you want, you may as well do it yourself! But if you want an estate plan that works, seek good counselling.



Step 2: *ESTABLISH AND MAINTAIN A FORMAL UPDATING PROGRAM.*

An estate plan faces a myriad of changes. First, there is constant change in your personal, family, and financial situation. Secondly, there is constant change in both tax law and non-tax law that impacts your estate plan. Third, there is constant change in your attorney's experience and expertise. Your professional advisors are continually improving through ongoing education and collected experience.

Since everything constantly changes, you cannot expect a plan to accomplish what it was intended to accomplish if it is never updated. The costs of failing to update are typically far greater than the costs of keeping your plan current.

Step 3: *ASSURE FULLY-DISCLOSED AND CONTROLLED SETTLEMENT COSTS AFTER YOUR DEATH.*

The cost of any estate plan has three parts: the part you pay for counselling and design up front

(or for word processing); the part you pay for updating (or the larger cost of failing to update); and the part your loved ones pay after death. Regardless of documents, there are always after-death costs.

Wills go through probate. Trusts have to be settled. In either case, assets must be transferred and often a death tax return must be prepared. Be sure you are discussing all the parts of the cost with your attorney before you begin to plan. Understand what all the costs will be in advance, and ask how they can be controlled.

The Importance of the Team Approach

Creating an estate plan is not difficult, but it does require the involvement of all your professional advisors: your attorney, your accountant, and your financial and insurance advisors. If all the professionals are included in the planning, you are much more likely to have a plan that works. If not, you may receive conflicting advice that leads to confusion and inaction.

We suggest that you allow us to involve your other advisors in your planning, and keep them apprised of steps you are taking. That way everyone is fully informed and has a chance to offer their particular expertise to the process.

***A Proper Estate Plan Meets Your Goals
and Keeps You in Control
of the Process and the Results!***

A Word of Caution

Proper estate planning revolves around your relationship with a qualified estate planning attorney. Unfortunately, there are many businesses and salespeople masquerading as estate planning professionals. They are inundating the public with sales schemes that involve selling wills, living trusts, and other estate planning documents without the involvement of attorneys in the design and drafting of the documents. They are the opposite of what I and my colleagues in the National Network of Estate Planning Attorneys stand for.

Proper estate planning requires professional thoroughness by attorneys and other advisors and respect for the overall well-being of the client and the client's family. We aspire to the highest ethical professional behavior that will lend dignity to the client, the planning professionals and the planning process.