

# Your *Trust* Matters

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TRUST SERVICES



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## Avoid Pitfalls By Doing Proper Planning

Abraham Lincoln has sometimes been quoted as saying “He who represents himself has a fool for a client.”

Over the years I have been asked numerous times, what the best ways to do estate planning are, and whether an attorney is needed to do it. The short answers here are, 1) there are many ways, and 2) absolutely, yes!

I’ve had many conversations with clients over the last three decades, and during that time I’ve always adhered to one continuing theme, i.e. “do proper estate planning”. It may seem simple on the surface, but estate planning can get complicated very quickly and the area merits proper attention. Not doing an estate plan, or trying to do the plan on your own, are both recipes for disaster. I’ve seen many instances where unintended results occurred because of a lack of proper planning, or sadly, because of no planning at all.

A Gallup poll in 2016 found that only 44% of Americans have a will that describes how they would like their money and estate handled after their death. That is a rather startling statistic, if you think about it. More than half of the folks walking around do not have a will, and are left with having an estate plan put in place for them by the state they are domiciled in.

One of the ways we can provide value to our clients is by serving as a resource, when it comes to discussing possible estate planning techniques. At the end of the day, it is your decision on what planning techniques you’d like to use; final planning is effectuated by you and your attorney. Since we want to ensure that you make informed choices, the best way we can do that is by offering our assistance in reviewing options with you.

Normal planning techniques typically used for passing assets from one generation to the next include using a will or revocable trust. A will is the most straight forward method, and it works well for most folks. Some commentators advocate against using a will, but probating a will is straightforward and simple. It is simply a court overseen method to move assets from the decedent to another person. Boiled to its essence, it really isn’t anything more than that. Having court oversight is very helpful in contentious situations, as the court can lend guidance, as necessary. Using a revocable trust provides the advantage of privacy, as nothing is filed at the courthouse. A typical revocable trust, in and of itself, does not avoid any estate or inheritance taxes that may be due. For folks with more substantial assets, it is worthy of consideration for other reasons beyond the scope of this article.

We can certainly give suggestions about planning techniques that might be beneficial in your situation, so feel free to reach out to any of our trust officers to discuss.

The general public sometimes use other beneficiary methods to transfer assets. Those methods include joint tenancy, payable on death accounts (PODs), and transfer on death accounts (TODs). Other assets pass by operation of contract, such as life insurance, IRAs and 401(k)s, which are normally transferred via beneficiary designations.

Using these techniques can be helpful in estate planning, but can prove to be counterproductive, if used incorrectly. It gives me pause when I hear of situations where folks try to bypass probate, through the exclusive use of the beneficiary methods mentioned. It gives me even more pause, when I hear that they’ve done it without consultation of an estate planning attorney.

At the end of the day, folks should ask themselves what they want to happen with their assets after they are gone. That way they can properly implement strategies, and ensure their wishes are fulfilled. We’re here to serve as a resource, so feel free to reach out to any of us, if you have questions or need guidance on your specific situation.

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