

052810 Estate Planning, Part 3
By Gary Case

Have a great Memorial Day weekend! I wish to thank those who have served or currently serve in the armed forces. Some paid the ultimate price, and those who survive know there is no honor commensurate with that sacrifice. For those of you who read this, please accept deepest gratitude from the rest of us.

My past two columns dealt with potential estate planning issues that may apply to some of us. I'll spend a few words here on issues that could affect most of us.

A common practice of many folks as they advance in age is to get help from a family member in managing their finances. Part of setting up the plan is to place a child as a joint owner on bank accounts. While that act certainly provides the child an avenue to assist a parent, it can also put both the child and parent at risk. For example, if either the parent or the child is found liable and is sued, assets of the joint account owner might be vulnerable to judgment and collection. A simple solution is to place another signer on your account as power of attorney only. A General, Durable Power of Attorney is a good document to use in this situation. Accounts may also be titled as Pay-on-Death or Transfer-on Death, if the parent wishes to pass a savings account or Certificate of Deposit to an heir.

Perhaps the greatest constant in our lives is change—weddings, divorces, new family members, new jobs, new homes, etc. It is not uncommon for me to find a life insurance policy or retirement plan with an ex-spouse as beneficiary. Yes, folks, that is binding. Your divorce decree doesn't automatically change beneficiaries. Wills and trusts should be reviewed regularly (I like to use presidential election years as timing for such reviews) to assure they still reflect your desires and situation.

The Health Insurance Portability and Accountability Act (HIPAA) passed a few years can have a dramatic affect on your ability to act as a Medical Power of Attorney. If you have a living will/medical power of attorney document that has not been review since 2005, you should probably look at revising it to include language required by HIPAA to give your designee the ability to perform under that document.

There is always debate about wills versus trusts. A conflict of interest that most attorneys do not acknowledge is that a will almost guarantees a probate (thus attorney is paid to draft the will AND paid again to perform the probate), while a trust may eliminate probate (IF drafted and administered properly). Estate taxes look to be affecting more of us than in the recent past, so consideration of a trust may be more applicable than ever.

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