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In-The-Know Monthly eNewsletter

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Hey, What About Me? Estate Planning Issues for Single People

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One of the most common remarks we receive in seminars is from single people who feel that the seminars, and estate planning in general, seems focused on the married. And their observation is probably valid. We tend to focus on the married people with children, since they are the ones who tend to be more concerned about estate planning issues. But the truth is, single people need help, as well.

The single population is growing in America, moving from just over one third (1/3) in 1970, to over one-half (1/2) in 2012. Among the population that is 65 or older, 53% of women and 26% of men were unmarried. Those numbers tell us that there are close to 18 million divorced, never married or widowed Americans over 65 years old.

So what are some of the most common estate planning issues for single people?

Health Care, Legal and Financial Caretakers

If there are adult children, the single client often has the same issues as the married client, just accelerated. For married clients they generally choose each other as the primary agent for health care and legal/financial matters. Children are usually second. When you are single with children, those kids often become the first choice, for good or for ill.

For single people without adult children, or without adult children they trust to get the job done, there are greater stakes. Identifying someone you trust and who has common sense is the most important thing. Next, consider their health and age, and finally consider their location. Remember that this person does not have to personally pay the bills or file the taxes, they just have to make sure those things get done. For health care it is harder, as you need that person to be an agent and an advocate, ready, willing and able to jump into action at a moment's notice.

Where Does the Money Go?

When a married person dies without a will or a trust, the surviving spouse typically inherits a large part, if not all, of the assets. When you are single and die without a plan, the estate will be distributed to relatives in a way you might not like. Most clients are okay if their estate passes to children or grandchildren, and may be okay if there are siblings or nieces and nephews for the assets to end up with. But for people from a small immediate family, money could go to barely known, or never met, relatives, or even the state. Close friends, unmarried partners and favorite charities would get nothing.

Imagine a person who spent every day working with their Church, raising money for Parkinson's Disease or working with the under educated, those causes may end up with nothing.

Everyone, even a single person, needs to have a will (or a trust). A will is essentially a set of instructions for how assets are to be divided after death. It names the person to serve as the personal representative or executor, the person who carries out those instructions.

Beneficiary Designations

Most single people do not have joint accounts to allow their brokerage and bank accounts to pass to a spouse at their death. That means those accounts will pass through probate (or by the terms of a living trust).

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But all of us have beneficiary designated assets. And those beneficiary designations are often a "stealth will" sending a large percentage of a person's estate to people no longer in their lives. That is because the beneficiary designations are not controlled by a will, a trust, or common sense.

If you are single because of divorce, but have not replaced the former spouse on beneficiary designations, that Ex could end up with a gift no one expected. Beneficiary designations for all Federal benefits are not affected by a divorce, and that is true in many states for other beneficiary designated assets as well.

Make sure to update beneficiary designations and keep a few rules in mind when doing so:

- With a TSP, IRA, 401k, etc., a charity or younger beneficiary may make more sense than an older friend or family member;
- Avoiding probate by using beneficiary designations on cash and brokerage accounts is great, but make sure to leave the executor or trustee (in their official role) some money to administer the estate, pay taxes, etc. – don't "over designate;"
- If there is no named beneficiary at all, the assets may not end up going to the most efficient or desired beneficiary.

Estate and Capital Gains Taxes

The Federal estate tax exemption is going up to \$5.43M in 2015, and it goes up a little each year. If you are single because a spouse died in the last couple of years, it may have been possible to use "portability" to keep his or her unused estate tax exemption for the second death. Regardless, for most people, there will not be a Federal estate tax to pay at their death.

But, 19 states and the District of Columbia still have their own "state" estate taxes, and those exemptions are often much less. For example, New Jersey's exemption is \$675,000, and DC's is a \$1,000,000. So attention to estate taxes is still necessary for people living in those states.

A bigger issue for many people is the capital gains trap of giving, or receiving, a gift of appreciated property. While it may seem easier to give a child or friend a piece of real estate before death, and while some state estate tax may be avoided by doing it, remember that the gifted real estate (or stocks for example) pass to the recipient of the gift at the giver's "tax basis". For example, Aunt Mary gives a house that was purchased for \$50,000 to her niece, Martha, before Aunt Mary's death. After receiving the gift, Martha sells the house for \$300,000. Then Martha will pay a capital gains tax on \$250,000. However, if Martha inherits the house after Aunt Mary's death, Martha's "tax basis" is "stepped up" to the date of death value. As a result her "tax basis" becomes \$300,000. Consequently she pays no tax on the sale.

Bottom line, estate planning is necessary for all of us - married, single, widowed or divorced.

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