

Anquillare, Ruocco, Traester and Company

Estate Planning Checklist

The purpose of the checklist is to assist you in accumulating the necessary documentation and to help you organize your thoughts on how your estate assets should be distributed **BEFORE** you meet with your estate planning attorney.

Your attorney will need direct answers to his/her questions. Generally, attorney’s fees are based upon the time they spend, so if you are prepared to respond to his/her inquires, your meeting will be more productive and efficient and you will **save money**. More importantly, you will be assured that your attorney has all the information needed to do the **best possible estate plan for you and your family**.

Keep in mind that, unless you create an irrevocable trust, **you can always modify your estate planning decisions**. In fact, it is wise to update your estate plan periodically especially after the occurrence of a significant life event such as the birth of a child, divorce,

or a large inheritance. An estate plan is not written in stone.

Try to respond to the inquiries as best you can. Some of the questions may seem unpleasant to you and some may be very difficult to answer. If you are uncertain about a particular question, simply write “not sure.”

Estate taxes

The current law gradually reduces federal estate taxes and then completely repeals them in 2010. However, the repeal is scheduled to expire in 2011. Unless the then current congress and president enact legislation to make the repeal permanent, estate taxes will return in 2011. Consequently, unless one plans to time one’s death to occur in 2010, one would be wise to have an estate plan.

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1. General information

Your name _____ Date of birth _____ SSN _____ - _____ - _____
Your spouse's name _____ Date of birth _____ SSN _____ - _____ - _____
Address _____
Home phone _____ Work phone _____ Email _____

Comments:

Child _____	Date of birth _____
Child's spouse _____	Date of birth _____
Grand child _____	Date of birth _____
Grand child _____	Date of birth _____
Grand child _____	Date of birth _____
Comments ¹ :	

Child _____	Date of birth _____
Child's spouse _____	Date of birth _____
Grand child _____	Date of birth _____
Grand child _____	Date of birth _____
Grand child _____	Date of birth _____
Comments:	

Child _____	Date of birth _____
Child's spouse _____	Date of birth _____
Grand child _____	Date of birth _____
Grand child _____	Date of birth _____
Grand child _____	Date of birth _____
Comments:	

¹ Comments may include marital status other than married, a pending divorce, a child with special needs, etc.
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2. Documents

If they exist, bring copies of the following documents

- Will
- Living will
- Powers of attorney
- Conservatorship
- Trusts created by you or your spouse
- Deeds to real estate
- Planned gift commitments
- Divorce decree
- Documents related to adoptions
- Documents related to inheritances
- Documents related to trusts for which you are a beneficiary
- Life insurance policies
- Latest personal income tax returns (state and federal)
- Latest business tax returns (state and federal)
- Latest gift tax returns
- A personal statement of net worth² that identifies the **individual**³ current estimated market values of
 - cash accounts, i.e., checking, savings, CDs, etc.
 - retirement accounts⁴
 - publicly traded securities, i.e., common and preferred stocks, bonds, mutual funds, etc.
 - annuities⁵
 - major personal property including collectables
 - loans receivable
 - real estate and related mortgage loans
 - personal residence
 - vacation home
 - time shares
 - rental property
 - other real estate
 - closely held business interests⁶
 - loans payable and collateral

Comments:

² We can help you prepare the statement

³ Also indicate the type of ownership, i.e., (H) husband, (W) wife, (JT) joint tenant with right of survivor, (TC) tenancy on common. It is important to be accurate in this regard, miscommunication can have significant unwanted consequences

⁴ Indicate any named beneficiaries

⁵ Indicate any named beneficiaries

⁶ Indicate percentage owned and form of business, i.e., sole proprietorship, partnership, LLC, C corporation, S corporation

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3. Future interests

Describe below and supply copies of available documents associated with anticipated increases in wealth such as anticipated inheritances, trusts⁷ and proceeds from life insurance policies.

4. Contingent liabilities

Describe below any material personal guarantees on loans where you or your spouse are NOT the primary obligor. These may include business loans guarantees or personal loan guarantees where you or your spouse are contingently liable if the primary obligor fails to make payments. Also indicate whether, in the event of your death, you have insured the obligations.

5. If both you and you spouse die, who will take care of your minor children?

In the table below list the names and contact information of all guardians and the names of all your minor children who will be under their care. You should list more than one guardian in the event the first guardian is not available. The list should be prepared in order of the preference with the most preferred guardian listed first.

⁷ Include anticipated periodic distributions of principal and income.

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6. *Special circumstances*

Describe below any situation that would require special attention upon the demise of you and your spouse. For example, if you are caring for a handicapped dependent, describe the how and by whom you believe that care should be provided.

7. *Will changes*

If you already have a will, describe any changes that you would like to make to it.

8. *Specific bequests*

List below any individual assets that you would like to transfer after your demise, and indicate the individual or organization to which the assets should be disbursed. For example, you might say, "I would like to leave my coin collection to my nephew Steven." Or you might say, "I would like to leave \$10,000 to the Do Good Foundation." Do not list assets that will be held in trust.

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9. *In general, how would you want your assets distributed*

- If you predecease your spouse?
- If your spouse predeceases you?
- If one or more of your children predeceases you?

10. *Restrictions on distributions*

If you have children and assuming you and your spouse die, would you want to place any restrictions on when each of your children are given unrestricted access to your assets?

11. *Executor*

Indicate below the name and contact information of the individual who will take charge of your estate. Note that in some cases it makes sense to name an independent executor rather than a family member who may also be a beneficiary. It may also be wise to name co-executors – a family member and an independent professional such as an attorney. It would also be wise to name alternate executors. Indicate who are the alternative executors in order of preference.

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12. *Personal representative*

Indicate below the name and contact information of the individual who will act as your personal representative if you become incapacitated. If appropriate, name two different individuals, one to manage your financial affairs and the other to manage your medical affairs. You may also wish to name substitutes. Note that this information may already be included in your living will.

13. *Funeral arrangements*

Describe any special wishes with regard to your funeral arrangements.

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14. *Special concerns of the family owned business*

While this checklist is not intended to provide guidance on business succession, we should take this opportunity to call your attention to a mistake many business owners make when crafting their estate plan.

It is a sad fact that most family owned businesses never survive past the first generation and still fewer survive past the second generation. Generally, such failures are directly attributable to the lack of a solid succession plan. Owners fail to recognize that with regard to the management and operation of closely held business, equal treatment among children is not always appropriate.

The business owner simply does not want to face the tough decision as to who should inherit the responsibility of the family business. While they instinctively know who is most qualified, they fail to communicate their feelings because they fear being criticized. Instead, they take the easy way out by distributing ownership equally. Unfortunately, statistics show that the business transferred equally to all children – including those who are not qualified – will likely fail.

Alternatively, the business owner could transfer the business to those who are more qualified and equalize the distribution among all beneficiaries using other means.

If this concerns you, outline your concerns below.

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15. Trusts

A trust is an arrangement in which property is held by a trustee who manages the property for the benefit of another. A trust can benefit its grantor, it can benefit beneficiaries or it can benefit both the grantor and the beneficiaries. Trusts can be created to operate during the grantor's life or they can be designed to operate according to the grantor's will. They can also be revocable or irrevocable.

Trusts have been used for centuries for a variety of purposes. Among other things, trusts can:

- Help manage your property and investments
- Help avoid probate costs
- Avoid estate taxes on life insurance proceeds
- Protect the financial and non-financial interests of minor children
- Preserve opportunities to reduce estate taxes
- Optimize the financial benefits of charitable giving

Some of the more common trusts used in estate planning include **living trusts, life insurance trusts, and qualified personal residence trusts**. While this checklist is not designed to discuss the details, it would be wise to provide some basic information about these arrangements in advance of your meeting with your estate planning attorney.

A **living trust** is a trust that you set up during your lifetime, to which you transfer most of your assets. Under the arrangement, you would have the right to receive the income as well as the principal from the trust. While you can revoke the trust during your lifetime, upon death it becomes irrevocable. Although they are not necessarily designed to minimize estate taxes, living trusts are useful if the goal is to avoid the time and expense of probate. Some of the benefits of avoiding probate include quicker distributions; more privacy; and avoiding multiple probate proceedings when real estate is held in more than one state.

Though not subject to federal *income* tax, life insurance death benefits can be subject to federal *estate* tax. A poorly structured life insurance policy could subject your estate to additional taxes and leave your family with less than you anticipated. If you survive three years after transferring your life insurance policy to a **life insurance trust**, your insurance policy will be removed from your estate and there will be no federal estate taxes on the death benefits.

A properly drafted and executed **qualified personal residence** trust may eliminate federal estate tax and minimize federal gift tax on your home. Under the arrangement, your personal residence or a qualified vacation home is transferred into a trust for a term selected by you. During that term you continue to live in the house. At the end of the term the property is transferred to your children without passing through your estate, thus avoiding federal estate taxes. In addition, for gift tax purposes the value of the house is frozen at a discounted value further saving gift taxes.

If you have any specific concerns that you believe might be accommodate using trusts, please list them below.

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16. Trustees

While your executor will handle the short-term affairs of your estate, trustees are appointed on a long-term basis to manage property that you place in trust for the benefit of your designated beneficiaries. A trustee may be an individual or a corporation, such as a bank. Professional trustees such as a bank, an attorney or CPA will charge fees to manage the trust, so it may not be cost effective to establish small trusts. Although there may be some unwanted tax consequences, trust beneficiaries may also act as trustees. Those consequences however, may be avoided by the appointment of independent co-trustees.

Even if you have not established a trust, you are encouraged to list the names and contact information of possible trustees and alternates below. Keep in mind that the attributes of a good trustee include maturity, integrity, common sense, business experience and a recognition of fiduciary responsibility.

17. Community property

If you or your spouse own real estate located in, live in or have lived in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, Wisconsin, indicate which state and describe the property below.

18. Other issues

If there are other issues that you believe are relevant to your estate plan which have not been address elsewhere in this checklist, please describe them below⁸.

⁸ Special charities, civil unions, etc.
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