

AN ESTATE PLAN CHECKLIST

NAME:

DATE:

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-] Trust Document – Is your trust documented, up to date and does it say what you want it to say?
 -] Exhibit A – If the trust calls for an Exhibit A (list of assets), is it attached to the Trust and does it show ALL of the assets you want to place in the trust?
 -] Transfers to Trust – In addition to the Exhibit A, each asset that uses a title document (real property, cars, aircraft, boats, RV's) each need to be transferred on the title document. Is there such a document for each such asset?
 -] Abstract (Certification) of Trust – Is this document up to date and does it have the correct pages of your Trust attached?
 -] Husband's Will – Is this document up to date, list all the children and the correct wife and is it witnessed correctly?
 -] Wife's Will – Same.
 -] Advance Health Care Directive (Husband) – Is this important document up to date, list the correct agents and correctly express your intent about your medical care if you can't speak for yourself?
 -] Advance Health Care Directive (Wife) – Same
 -] Deed(s) – Have the deed(s) to the real estate been recorded in the name of the Trust?
 -] Preliminary Change of Ownership Form(s) (PCO's) – Have the PCO's been filed with the County proving that there is no real change of ownership just because you deeded your real estate to your Trust, FLP or LLC?
 -] Financial Power of Attorney (Husband) – Is this document in order, state the correct agent(s) and provide for gifts and alterations to your estate plan?
 -] Financial Power of Attorney (Wife) – Same
 -] Location – Are your original estate plan documents protected from fire and water and does your family know where that is?
 -] When you visit with your Estate Planning Attorney (please don't even dream of

letting your insurance agent, CPA or notary public friend do your estate plan – attorneys are the only people legally authorized to plan an estate), please consider these alternative estate planning devices to see if any of them apply to your unique facts and circumstances:

A. Major Moves:

- Gifts to Children
- Gifts to Trust (short-term)
- Gifts to Trust (long-term)
- Insurance (offset tax; provide liquidity; estate replacement)
- Life gift to charity, remainder to children
- Term gift to charity, remainder to children
- Private Annuity
- Section 303 redemption
- A two-part will
- Wasting marital deduction trust
- Split marital deduction trust
- House trust
- Recapitalization of your company to include the children as shareholders
- Possible creditor attack problems

B. Income

- Current income inadequate
- Retirement income inadequate
- Dependent parent(s)
- Dependent in-law(s)
- Dependent relative(s)
- Spouse's income inadequate
- Spouse has separate income (high bracket)
- Post-mortem income inadequate

C. Insurance

- Insurance payable to estate
- Change beneficiary
- Incidents of ownership owned
- Incidents have been assigned
- Change ownership
- Reversionary interest exceeding 5%
- Premiums paid by insured
- Premiums paid with donations by insured

D. Jointly Owned Property

Property in joint tenancy
Joint bank accounts
Tenancy by entirety
Community property problems

E. Trusts

Income reserved
Right to change beneficiaries
Reservation of reversion
Taxable power of appointment
Partial release
Complete release
Effect of release on liquidity
Insurance trust

F. Liquidity Problems

Mortgage too high
Insurance on bank loans
Bank and personal loans (credit cards) too high
Margin accounts
Cash bequests, check
Contingent liabilities
Adequacy of business agreement funding
Liquid assets passing by contract
Liquid assets passing by operation/law
Insurance for liquidity

G. Close Corporation

Sell or retain?

Possible problems:
weak management
inadequate capital
problems of distribution
problems of fiduciary investments
volatile earnings
vulnerable to competition

Sale to employees or an ESOP

H. Partnerships

Liability for debts of firm or problems of partners
Estate requirements of liquidation agreements
Option agreements
Entity purchase agreements
Advantage of incorporation – Subchapter S

I. **Gifts**

Gift of cash
Gift of matured endowments, etc.
Gift of proprietorship
Gift of listed or unlisted securities
Gift of notes receivable
Gift of realty
Gift of close corporation stock
Gift of partnership interest
Outright gifts – gifts by trusts
Outright gift -- donee creates trust
Gift tax
Net gift
Remainder gift to charity
Joint tenancy into tenancy in common
Reorganization of corporation to include children

J. **Wills and Intestacy**

Testamentary trusts
Right of withdrawal
Life income to wife and remainder to charity
Charitable bequests now
Spendthrift clauses
No contest clause complies with current law?
Intestacy -- division into shares
Intestacy -- probable refusal to heirs to take in kind
Intestacy -- minor heirs
Simple will or Pour-over