FCS5-420

Cooperative Extension Service

Estate Planning Part 1: Getting Started

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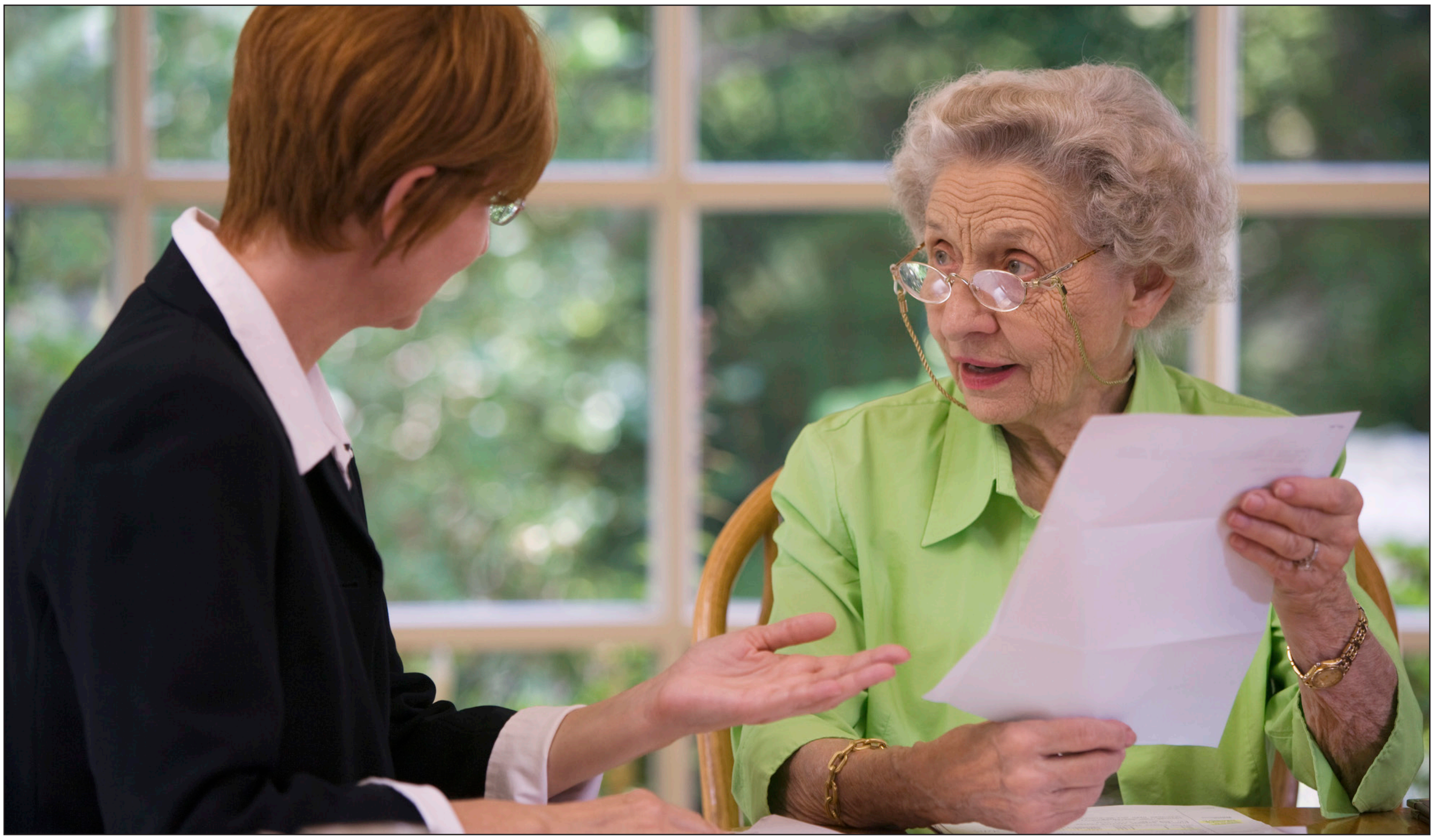

What Is Estate Planning?

Estate planning is arranging for the use and disposal of your resources and property after your death. It allows you to look at the total picture. You should give some time and thought to planning your estate. Briefly, the steps involved are:

1. Know what you have and where it is.
   - What do you own?
   - What is your net worth?
   - Where are your important papers?
2. Know how you want your estate to be handled.
   - What are your goals for your estate after your death?
   - Who in your estate-planning team can help you meet those goals?
3. Know how to provide for distribution of your property before and after your death.
   - Probate/will
   - Trusts
   - Gifts
4. Put your plans on paper.
   - Prepare the proper documents.
   - Know the tools to use while you are living, such as durable power of attorney, advanced medical directive, and a pre-planned funeral.

Know What You Have and Where It Is

During your lifetime, you accumulate resources, or *assets*. The assets you own transfer to other people when you die, or they may be disposed of by the state. Many people fail to make plans to transfer their property and possessions at the time of their death. Some people think such plans are only for the rich. Other people think they can plan for the transfer later, but then never take time to do it. Some people think they do not need estate planning and that everything will be all right for their families when they die.

Everyone already has an estate plan. If you do nothing, the state will decide through state law how to dispose of your possessions after your death. However, state law may not transfer your resources in the way you want.

Everyone already has an estate plan. If you do nothing, the state will decide through state law how to dispose of your possessions after your death. However, state law may not transfer your resources in the way you want. Your spouse or other family members must follow that law and cannot follow your wishes unless you have prepared the proper documents in advance. Therefore, everyone needs to develop their own estate plan. Also, settling an estate without formal plans and documents is difficult. People who have handled unplanned and undocumented estates agree that taking the right steps ahead of time makes it much easier and saves both time and money. Dying without a will is known as dying *intestate*.

If you are still skeptical, see if you can answer the questions below. Accepting the fact that you are going to die someday, ask yourself: "If I should die tonight ..."

- What would happen to my property?
- Who would care for my minor children or aging parents?
- Would my spouse and children be provided for?
- Would the family business continue?
- Would the estate settlement be conducted by someone with my family's interests and needs in mind?
- Would estate and inheritance taxes, probate fees, and other administrative or legal costs be held to a minimum?

If the answers to these questions are important to you, you should consider developing an estate plan.

To begin, you will need to know your present financial situation. The beginning of estate planning is knowing what you currently own, or your *current assets*. Eventually, you will need estate-planning professionals to help you with the final estate-planning documents; however, taking time to assess your finances now will save you time and money when you use their services.

The first step is to review your present financial situation. This step is crucial. It is the foundation of your entire estate plan, and the result will be satisfactory only if the information is complete.

You will need an inventory of all of your *assets* (everything you own) and all of your *liabilities* (everything you owe). Completing this step will provide a list of your personal resources. It will also help you determine your net worth and prepare you to make other estate-planning decisions.

To calculate your net worth, simply subtract your *total liabilities* from your *total assets*:

Total Assets - Total Liabilities = Net Worth

As you begin to gather information for your estate plan, an easy way to organize this information is in folders or three-ring binders designated for these records only. Be sure that someone in your family, the executor of your estate, or your attorney knows where to locate all your important papers. It is often wise to keep important papers such as these in a fireproof safe.

Along with an inventory of your assets, it is helpful to have a record of where your important papers are located. To settle your estate, your birth certificate, marriage certificate if you are married, car titles, bank account records, property deeds, stock certificates, and other important papers will be needed. Often families can spend a considerable amount of time looking for these important papers, or replacing them with duplicates, because the deceased had not previously made it clear where the papers were located. This process could end up costing your estate money and reducing the amount passed on to your heirs.

Other necessary financial records are:

- Your earnings records
- Your personal tax returns (and business returns if you own a business)
- Records of your home or other property purchases
- Records of improvements to your property
- Records of purchase of assets that, when sold, would be subject to capital-gains taxes
- Insurance policies, even if they have expired

Know What You Want to Do with Your Property

You probably have some ideas about what you want to happen to your property when you die. Before you talk with estate-planning professionals, it is a good idea to put these ideas on paper. Think about what you want to accomplish. These ideas become your estate-planning goals, or objectives.

Depending on the age of any children you have and the age of other dependents, your plans may change over time. Not only will time affect your objectives, but so will what is important to you. For example, if you have small children and you value a college education, one of your estate goals might be that should you die tonight, your young children would have the financial resources to go to college.

Here are some possible goals to consider when thinking about what you want your family to have when you die:

- Financial security for a surviving spouse
- Minimized estate taxes
- Minimized probate costs
- Specific property transferred to specific people
- Money to pay estate-settlement expenses
- Nomination of a guardian for minor children
- Continuation of a farm or other business

Because things change over time, it is important to rethink your estate-planning objectives from time to time and change them as needed. Most estate-planning professionals recommend doing this every three to five years. You will want to review your documents when tax laws change or a major change occurs in your family, such as the birth of a child, death of your spouse, divorce, or remarriage.

Distribution of Your Property after Your Death

Property is transferred in one of three ways. Historically, the most common way has been through *probate*. Probate is the court procedure by which a will is proved to be valid or invalid. Today, it generally refers to the legal process of administering the estate of a deceased person — collection of assets, liquidation of liabilities, payment of taxes, and distribution of property to the heirs. In probate, if you have a valid will, the will specifies what you want done with the assets you own or control. If you die without a will (*intestate*), probate is used, and it is based on intestate laws.

Another way to transfer resources is by means of a gift. Some gifts are made prior to death with your final estate in mind. Giving can be a way to reduce the size of your taxable estate.

The third common way to transfer resources is with a trust. An increasingly popular choice for estate planning is the living trust. There are other types of trusts used for estate planning. The right one for you depends on your goals for your estate and on your resources.

It is to your advantage to learn about each of these methods when deciding which method or combination of methods will meet your objectives, and which will save your estate the most money in estate taxes.

	Degree of Importance			
Objective	**Very Important**	**Important**	**Somewhat Important**	**Not Important**
1. Provide security for surviving spouse.	☐	☐	☐	☐
2. Relieve surviving spouse of estate management responsibilities.	☐	☐	☐	☐
3. Provide security for self and spouse after retirement.	☐	☐	☐	☐
4. Retire at age: ___________				
5. Provide security for an incapacitated family member.	☐	☐	☐	☐
6. Assure continuity of farm or other business.	☐	☐	☐	☐
7. Provide for educational opportunities for beneficiaries.	☐	☐	☐	☐
8. Assist beneficiaries in getting started in business.	☐	☐	☐	☐
9. Minimize estate and inheritance taxes.	☐	☐	☐	☐
10. Name guardians, conservators, or trustees for minor children.	☐	☐	☐	☐
11. Name the representative (executor) of the estate.	☐	☐	☐	☐
12. Provide means for paying expenses of estate settlement, taxes, and other debts.	☐	☐	☐	☐
13. Provide for equitable (not necessarily equal) treatment of family members.	☐	☐	☐	☐
14. Transfer specific property to specific people.	☐	☐	☐	☐
15. Make gifts to family members and others during your lifetime.	☐	☐	☐	☐
16. Reduce income taxes by disposing of income-generating property during your life.	☐	☐	☐	☐
17. Transfer property during your life by installment sale.	☐	☐	☐	☐
18. Provide bequests to favorite charitable organization.	☐	☐	☐	☐
19. Minimize probate and settlement costs.	☐	☐	☐	☐
20. Review current operation and ownership of a farm or other business.	☐	☐	☐	☐
21. Other: ____				

Put Your Plans on Paper

After you research the three methods of transferring your resources and explore which combination is best for you, you need to meet with an estate planning team to prepare the proper documents for your estate. Doing your homework beforehand will save you time and money. Depending on the size of your estate and your goals, your estate-planning team may include an attorney, an accountant, or some other professional who handles the specifics of your plans.

When you put your estate plans on paper, you may want your attorney to prepare some additional documents that will be valuable to you in the event you have a stroke or an automobile accident, or some other event occurs that leaves you alive but unable to make decisions for yourself. Be sure to learn about a *durable* or *springing power of attorney* and *advanced medical directives.*

It can be helpful to your family if you have preplanned your funeral arrangements. Then, at the time of your death, your family does not have to make financial commitments under the stress of loss. Prepaying for your funeral is not recommended, however, for at least two reasons. First, in our mobile society, you may not die where you have prepaid funeral expenses, and some costs would be incurred in the city where your death occurs. Second, the funeral home that you prepaid may go out of business before you die. Elderly people who know where they want funeral services to be held might be an exception. In such cases, a prepaid funeral may be practical. It is important to talk through these decisions with loved ones as you plan.

Developing Estate-planning Objectives

Use the worksheet on Page 3 to help you focus your estate-planning goals. Spouses should fill out separate forms and compare answers, then use the checklists to generate discussion about your estate plans. As you read each of the following objectives, check the column that indicates how important it is for your estate plan. Is it very important, important, somewhat important, or not important?

Because you take time to plan for the distribution and transfer of your assets after your death, your plans will be carried out smoothly and in a timely manner. Your estate-planning efforts will save your estate money after your death. More of your resources will go to the people you want to have them.

The Estate Planning Series

This publication is part of a ten-part series on estate planning. The publications in this series are:

Part 1: *Getting Started* (FCS5-420)

Part 2: *Your Records and Personal Information* (FCS5-422)

Part 3: *Selecting Your Team* (FCS5-423)

Part 4: *Financial Planners* (FCS5-424)

Part 5: *Wills and Probate in Kentucky* (FCS5-425)

Part 6: *Trusts* (FCS5-426)

Part 7: *Federal and State Estate Taxes* (FCS5-427)

Part 8: *Planning Your Digital Estate* (FCS5-465)

Part 9: *How to Settle an Estate* (FCS5-436)

Part 10: *A Glossary of Terms* (FCS5-428)

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