51 Monroe St, Suite 1902, Rockville, MD 20850

Memorandum

Date: February 10, 2023

To: Distribution

From: Phineas Underwood

Re: Estate Planning is it a Necessity?

Everyone should have a will to protect their assets and ensure the well-being of their beneficiaries. Even if an individual has a will, it may not be enough to truly protect one's interest. Estate planning is easily overlooked by more than half of Americans. It is a common misconception that an estate plan and a will are interchangeable when the reality is a will might not be enough. An estate plan offers potential savings regarding fees or taxes and potential legal costs. Legal or tax council can help aid stressful decisions of this nature, providing you and your family with more clarity on what option would work best for you given your current circumstances.

Future Generations

The expansion of your family is a spectacular opportunity but amplifies the need for more stability when it comes to planning for uncertainty. A will offers the individual some level of control over a potential tragedy by establishing care for the child, however, an estate plan can help ensure a smoother flow of assets during this process, especially in the case of a minor being claimed as a beneficiary. Provided the owner has provided proper instructions to the financial institution and has named a beneficiary, some assets can be distributed by the bank or brokerage firm. Hypothetically, if someone is named as a beneficiary of an account, and the above procedure is followed, the account can typically transfer to the beneficiary avoiding probate and bypassing a will. In the absence of a beneficiary, assets can be placed into a professionally managed trust by implementing this strategy which avoids the predicament of an inexperienced individual with good intentions mismanaging the assets.

Where and How Much?

A second factor of importance is the size of the estate and whether it qualifies for an estate tax exclusion which for 2022 was below $12.06 million net for each spouse of a married couple. However, a crucial note is that estate taxes which are placed on an individual via their state could alter the estate or inheritance tax. If a state does choose to implement an estate tax it is easy to enter a situation of excess liability based on the summation of all the compiled assets. Finally, when reviewing estate planning protection of family assets must be considered and an estate plan can help with this by incorporating a trust.

Costs Associated with the Alternative

As probate court is made public to anyone who desires it, creditors or other claimants could access these documents to challenge a will. The process of probate court leads to excess costs on the estate as a result of lawyer fees and court costs in some cases these fees can take up to 5% of the value of an estate. Due to the bureaucracy associated with the court system, the average probate could take more than a year.

Preparation for a Medical Emergency

In most cases, there is a connotation that an estate plan only has to do with death, although it can also be enacted in the event of incapacitation. By giving an individual financial power of attorney you hedge your bets in the case of an unfortunate untimely event. Oftentimes, this clause can go into effect immediately after signing or springing, however, as with a financial decision one must seek the advice of a financial services provider about power of attorney. In addition, the individual would have the opportunity to name a healthcare proxy, someone who can make medical decisions on one's behalf, both of which typically will stand in the event of incapacity.

Giving Back

An estate plan allows an individual with a philanthropic outlook the opportunity to customize their donations and achieve more favorable tax rates than a will, which only allows an individual to name a beneficiary. Creating a Charitable Lead Trust or (CLT) would allow for an income stream to compound and if established correctly upon termination would be distributed to the Grantor’s beneficiaries. Examining the purpose of a (CRT) or charitable remainder trust which aims to give the remainder to the grantor's favorite charity and provide beneficiaries income before the grantor's death. The aforementioned options provide many benefits like a reduction in the capital gains taxes associated with the appreciation of assets, a reduction of the estate tax, customizable charitable options, and income tax savings as a result of charitable donations.

Conclusion

When examining what's right for the individual it is crucial to examine factors like where you are in life, the level of insurance desired for future generations, and the steps needed to mitigate costs and maximize efficiency. Estate plans can help to elaborate on a will and give more clear instructions in the case of an untimely event. Estate plans also allow for a more customizable process when choosing to make charitable donations. Many factors must be weighed in assessing this decision but there is a potential to increase the net benefit by choosing to utilize an estate plan.