

## *Effective Estate Planning*

I recently read in a national publication that the level of satisfaction with estate planning attorneys is low. I believe that this is the result of a “failure to communicate”. Some estate planners can determine the best approach to a set of facts, but many fail to listen to the clients. Some clients think they know the best approach, but lack the technical understanding to make such a determination. To be effective, an estate plan should be tailor fit to the client’s objectives and circumstances. The attorney should not fit the client into a predetermined plan nor should the attorney blindly create whatever plan the client believes is best.

The client’s objectives are the first of the key ingredients to a tailor fit estate plan and the responsibility for their communication falls on both the attorney and the client. The client needs to make their objectives known and the attorneys need to ask the right questions to learn them. To properly communicate client objectives, the attorney and the client should discuss the current circumstances, the circumstances anticipated at death and those anticipated after death.

This should lead into a discussion of the client’s family members and the relationships between and among the family members. In order for a client to freely discuss the idiosyncrasies that each family has, there must be some chemistry between the attorney and the client. Some may disagree with this, but I have found that to get a comprehensive estate plan tailor fit to your circumstances, you must feel exceptionally comfortable with your attorney.

Discussions about family members can be difficult and often clients will be asked to consider circumstances that cause them to deeply reflect on their family. It is important to guide clients down these roads even if they are reluctant. At this point in the planning, it is important to also examine the relative importance of the objectives of clients. Estate planning is not purely business planning. There are loved ones involved. If the attorney understands the family and the client’s objectives, the most suitable plan can be developed.

The second key ingredient to an effective estate plan is for the client to learn the basics of property law and tax law to empower the client to make their own best decisions. Remember, this is the client’s estate plan not the attorney’s. Clients can approach this in a few ways. They can learn independently or with the cooperation with their attorney. I have found that those that seek to educate themselves become overwhelmed with the volume of material available on the internet. Unfortunately, not only is there more information available than can be consumed, the accuracy of much of the information is suspect.

If you choose to learn independently, be careful about the motives of the creator of the information. It would only be natural for an insurance company to promote estate planning techniques utilizing life insurance. The same may be true for promoters of family limited partnerships. Whatever they have to sell is the perfect solution for every

situation. It is much like the old saying, for someone with a hammer, everything looks like a nail.

The alternative to independent learning is to seek the assistance of your attorney. There are two potential problems with this alternative. First, what if you do not have an attorney yet? Locating an estate planning attorney that has the expertise and experience to address your needs at a reasonable price is difficult. I suggest that you seek the recommendations of family members and professionals with whom you work. After you obtain a few names, independently research each, starting with each attorney's website. After reviewing that, meet with the attorney. If there is no chemistry, move on.

The second reason people do not seek the assistance of their attorney is because they do not want to incur the cost. I believe that you should invest some funds to gain an understanding of the applicable laws that will directly impact your family and your property. That having been said, the best means by which to minimize the expense is to seek guidance from your attorney but not an education from square one.

I provide prospective clients with written material about estate and tax laws so that they at least have a familiarity with some of the terms I use. I also direct them to our website on which there are numerous articles that I have written about estate planning and tax issues. This, along with a meeting at which I go through the basics of the probate process, trusts and estate taxation, usually results in the client having an understanding of the basics. I build upon this understanding by explaining specific estate planning approaches that are best suited for the client.

The estate planning process takes not only time and money, it takes a mental commitment from the attorney and the client. The attorney and the client must communicate to educate the attorney about the client's circumstances and to educate the client about the basics of the applicable laws. With such an education, the attorney and the client can work together to create the most meaningful estate plan tailor fit to the client's objectives, essentially the most effective estate plan.

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