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Planning for a blended family

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As an estate planning attorney, I often work with clients that have children from previous marriages. These blended families bring special and very important issues to the table and oftentimes present challenges to develop a proper plan.



When we work with married couples, especially those with a blended family, decisions are critically important concerning who is going to be the Personal Representative under the Last Will and Testament, the Agent under the Power of Attorney, the Patient Advocate in the event of an incapacity as well as who will be the Trustee or administrator of the estate. While most traditional families will provide that the spouse is the key decision maker, many times it is a different arrangement with a blended family.

A lack of planning, especially for blended families, causes unnecessary heartache and disarray when one of the

spouses falls ill or passes on. I have witnessed many cases where the child of the incapacitated client wants to make financial and medical decisions for his or her parent, but the spouse has the legal authority to do so.

There are various ways to plan properly for a blended family. The following are several observations that I can offer for the reader to consider:

Preuptial/Postnuptial Agreement

If a couple plan in advance of the wedding date, a Prenuptial Agreement can lay out how the couple wants to provide for the division of assets in the event of divorce, as well as at the time of death. Further, the Prenuptial Agreement may provide who will have legal authority over the spouse's affairs if the spouse falls ill or passes on. A Postnuptial Agreement is an agreement that is made after the couple is married. A Postnuptial Agreement can address the same types of issues as a Prenuptial Agreement, and is legally enforceable under Michigan law in the same manner.

Comprehensive Estate Plan

A comprehensive estate plan includes Last Will and Testaments, a Revocable Living Trust, Financial Powers of Attorney, Patient Advocate Designations and Advance Medical Directive forms. A comprehensive estate plan is especially important for blended families because it should provide well thought out clarity

concerning who has legal authority for each of the clients if one or both fall ill and, at the death of the first spouse as well as at the death of the second spouse. Finally, a well-tailored estate plan will also provide how the estate should be divided amongst the blended family.

QTIP

A Qualified Terminable Interest Property Trust, or "QTIP," provides a legal arrangement for many blended families to provide income for a surviving spouse while providing the remainder of the estate, after the surviving spouse's death, to be distributed to the children of the spouse who passed away first. In addition, a QTIP Trust can provide additional monies to the surviving spouse for health, education, maintenance and support to supplement the interest income arrangement. The QTIP Trust can also be part of an overall plan for those who have an estate in excess of \$5.49 million for estate planning purposes. Assets in the QTIP would be those assets in excess of the \$5.49 million and the Estate tax due on that money would be deferred until the second spouse's death. A QTIP Trust is a tried and true plan to ensure use and enjoyment of monies for the surviving spouse while retaining ultimate control over the distribution of the asset by the spouse who died first.

Life Insurance

Life insurance can be a critically important tool for blended families. Oftentimes, I have clients that want to provide monies to their children from a prior marriage as part of a "first death set aside." This arrangement allows the spouse who dies first to provide an initial inheritance to his or her children with the life insurance proceeds, tax free, without forcing the surviving spouse to "give up" use and enjoyment of the other assets at the death of the first spouse. This is a very common technique as long as the planning is done properly.

Implement and Maintain

It is important to have a proper estate plan for a blended family. It is also critically important that the assets that the husband and wife team own are properly aligned with the appropriate legal documents. In particular, the ownership and beneficiary designation arrangement on the various assets must be in harmony with the estate planning instruments to ensure the proper result. In order for this coordination to be properly done, your estate planning attorney and investment professional should work together as a team to ensure that your wishes will ultimately be realized. Once your estate planning goals are defined and legally documented, it is important to review and maintain your planning to keep it current and proper.

Family Communication

While estate planning is generally viewed as a very private process, I encourage clients to communicate with their children in a manner that they are comfortable with so that there are no surprises if mom or dad falls ill or passes on. This communication can reduce the friction and arguments that many times follow the death of one of the clients in a blended family arrangement. It is often the element of surprise that creates the emotional heartache after losing a parent and then the children finding that the estate plan distribution scheme was not communicated to them. While each client will ultimately decide how much he or she feels comfortable telling his or her children, I encourage clients to at least share the big picture with their children in order for everyone to have proper expectations and to reduce the potential of acrimony after one of the clients has passed on.

For further information or to schedule an appointment, please contact the Morello Law Group at 734-281-6464 or morellolawgroup.com