

WATER STREET SMARTS

Estate Planning is More Important Than Ever

Q: What is an estate plan?

A: An estate plan is a combination of legal documents and protection tools. They work in combination; they are designed to pass the assets or the monies from one generation to the next, with the least amount of tax consequences. In that estate plan, you also find who those assets are going to go to, and in what percentage they will be distributed. So it's intended to outline and make very clear the distribution, and do it in a way that taxes are minimized.

Q: How do you start this?

A: It starts by identifying these different layers. The last couple weeks we've talked about the partnership, and how to protect yourself there and succession planning. But when you sit down and look at an estate plan, it is the culmination of all these things we've been talking about. You have to look at these layers, and what are those layers for the listeners here today?

1. It's the **individual**.
 2. And then it's the group of individuals, the **family**.
 3. And then it's the **business** layer.
 4. And then it's that **succession** of how to transfer the authority, the power; who's going to execute and carry out.
 5. And then of course this **estate plan** is that last layer.
- And when you've identified the individuals, the business, the succession, that transfer of power, then it's pretty easy to understand how the estate plan ties into all of this.

The first thing is that open communication-- you know, we talked last week about Crucial Conversations. But this is really about being open, being transparent, laying your cards out on the table, and talking about if the future was brought to us today, how do we want this to look? The one point I'd like to make, is that a lot of times as parents (I'm a parent; I have two children) we sometimes allow our *children* to dictate what that estate plan should look like, but *we* are the ones, as parents, who should dictate to *them* how our wishes are to be carried out. That's what an estate plan does. It makes it very clear, and it can be a shared vision, and people can have that understanding.

That's how I would start going about it: Identify the assets. Where are they going to go? Who are they going to go to? And bring the future forward to today.

Q: Say we have the estate plan in place. How often should it be reviewed?

A: An estate plan really should be reviewed annually. The problem is that a lot of people don't review them at all. Or if they do, it's every five or ten years, and they sit and maybe they've been implemented, but they generally kind of collect dust.

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A lot of things are changing in our lives. In a family unit, there can be divorces. There can be challenges with relatives or siblings not getting along. There are new tax consequences, like this unified credit is unlimited right now in 2010, and that's both the estate and the gift tax credit together. But next year that goes back to... I believe it's a million dollars per person. There's an unlimited marital exemption from one spouse to the other, but when you pass this on from one generation to the next, there are tax consequences. So when you look at all of these changes going on in our lives and with the government, with taxation, one should really review this annually.

It's really just a group of tools, understanding the wills and the trusts and the family-run partnerships, and the things that you have in there. And maybe tools change too, or need to change, to accomplish the goal. If you review this every year, you can understand, "Do we need to tweak anything? No it's good, those are still our wishes. Yes, everybody's still in place there." So, in my opinion, it's good to just sit down and revisit this plan once a year. Everybody else can take it for what it's worth, but I think more often is better than less often in this case.

Q: Also, with these reviews, maybe there's a new grandchild or those additions to make sure that if a family-type thing changes, it's probably a good time to review that as well.

A: Absolutely. You can set up educational funds, you can do all kinds of things to plan for the future. And every time somebody is added, something is taken away or something changes... We know our lives are very dynamic and nothing stays the same. So we just always have to make sure that this thing fits what our wishes are, and our wishes change also over time, so if you're putting an estate plan together and you're in your 30s or 40s or 50s... A lot of things change before age 80 or 85, and so annual review is a good practice.