

Estate planning

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Trust UPDATE

Stillman
BANK

March 2016

The fully credentialed executor

Sometimes the settlement of an estate is routine. Sometimes it is not.

Item. A handwritten will provided the entire estate to a surviving spouse. It further provided that, in the event the spouses died simultaneously, the estate passed to a charity, but the will did not cover the possibility of the wife dying first. That's what happened. The probate court held that, therefore, the estate, did not pass to the charity. The California Supreme Court reversed, holding that the will was unambiguous, that the testator clearly intended to benefit the charity, not his heirs.

Item. Decedent created two handwritten documents that purported to give his estate to a beneficiary. Each document was signed by a different witness. Although there were two witnesses, as required, they must witness the signature of the same document. The estate passed by the laws of intestacy, which apply when there is no valid will.

Item. Wife arranged Husband's murder. After an investigation, it was determined that she also had arranged the murder of Husband's mother, and Wife was convicted of the crimes. Husband's will left everything to Wife. In the event that Wife died before Husband, the prop-

erty was to be divided between Husband's mother (also murdered) and Wife's daughter and the daughter's two sons. Under Florida's "slayer statute," Wife cannot inherit from her victim. Husband's relatives argued in court that Wife's heirs also should not be allowed to profit from her crime, but that argument failed. The court held that the slayer statute is unambiguous, and applies only to the person or persons convicted of the crime.

What will your executor do?

These were not run-of-the-mill cases. Still, winding up the financial affairs of *any* individual's lifetime is not a simple, linear process. Many tasks overlap or occur simultaneously. That raises the question, who has the needed skill set, the systems, the personnel and the time required to handle the job of estate settlement promptly and efficiently?

Continued on next page

- **Inventory.** It's the rare individual who leaves a complete inventory of all of his or her financial assets and interests. Some assets are easy to find—bank and brokerage accounts with their regular statements, for example. Life insurance policies and retirement plan interests can prove more difficult to find. Interests in real property and closely held businesses can be the most problematic.

- **Asset management.** Investments must be monitored and income collected. Insurance must be purchased or maintained. Property taxes will need to be paid. Appraisals may be needed for collections, jewelry or other hard-to-value assets.

- **Debt collection.** Money owed by the decedent at death must be paid by the executor, after the legitimacy of the debt is confirmed. Similarly, the executor must make diligent efforts to collect all funds owed to the decedent. Tact will be needed when the debtor is a family member.

- **Raise cash.** Estate management requires cash for paying expenses and taxes. But most estates consist primarily of property. That means the executor will have to decide what to sell and when to sell it to meet the estate's cash needs. This is where strong investment planning skills can pay off. Funds should be raised without parting with the assets best suited for future family needs.

- **Pay income taxes.** The executor will have to file the decedent's final income tax return and fiduciary income tax returns for the estate itself.

- **Pay death taxes.** This year federal estate taxes are due on taxable estates larger than \$5.45 million. An estate tax return will be needed for estates of this size, even if

no tax will be due because of the marital or charitable deductions. If there is a surviving spouse, an estate tax return will be required to preserve the deceased spouse's unused federal estate tax exemption. Some states have much lower thresholds for filing state inheritance or estate tax returns. A state tax return may be required for each state in which the decedent owned property.

- **Distributions.** Delivering the estate assets to beneficiaries, or to trusts for their benefit, is among the easier and more pleasant duties that the executor must discharge.

- **Accounting.** The executor's final task is to account for all money and property that has been received and disbursed. Therefore, accurate and detailed records must be kept from the beginning of the process.

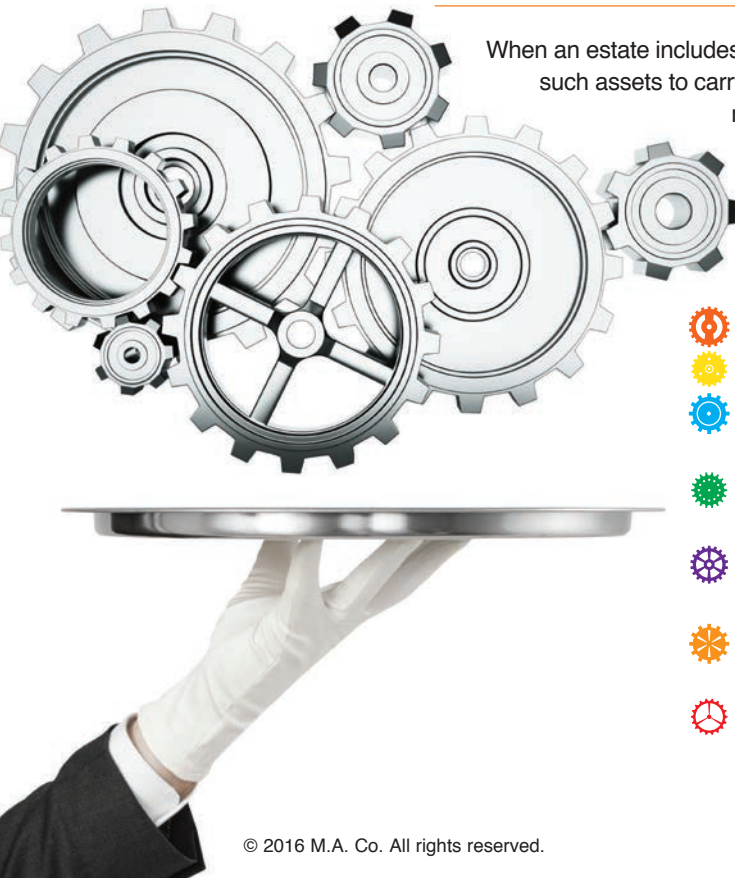
We are ready to serve you

Whom should you choose to settle *your* estate? We have the skills, the experience and the knowledge to handle properly the job of estate settlement. We are available, and we are impartial. We understand the nature of fiduciary responsibilities, and we know how to discharge them.

And for all this, our fee for settling an estate is generally comparable to what an inexperienced individual would receive. In some cases our experience will help to reduce estate shrinkage, increasing the amount available for beneficiaries.

Would you like to learn more? Please call on us for more details about our estate settlement service. □

Core advantages that we bring to the job of estate settlement



When an estate includes very unusual assets, choosing a family confidant with special expertise in such assets to carry out the estate management can be a wise choice. However, even more mundane assets, such as real estate or securities portfolios, also require significant expertise for proper management. This is the talent that a corporate fiduciary, such as us, brings to the table.

Here are the basic benefits that a corporate fiduciary provides in estate settlement:

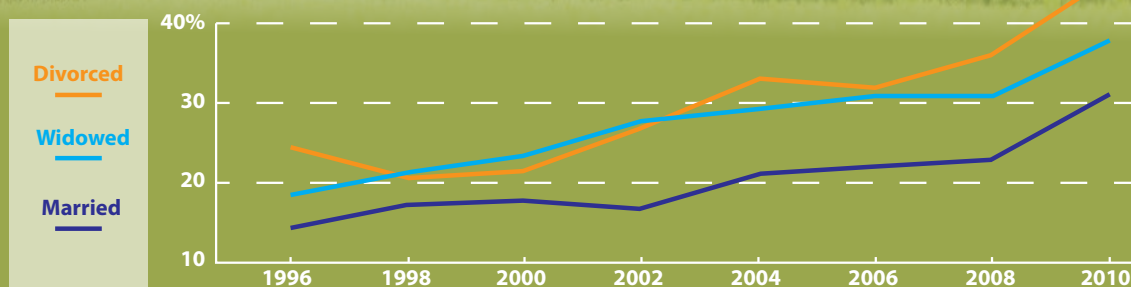
- ⚙️ We treat estate and trust administration as a full-time job.
- ⚙️ We have facilities and systems for asset management that individuals lack.
- ⚙️ Estate assets and trust funds in our care are doubly protected, by both internal audits and regulatory oversight by state or federal officials.
- ⚙️ We have an unlimited life, while an individual may die, become incompetent or just disappear.
- ⚙️ We bring long experience and group judgment to the job of investment management.
- ⚙️ We will treat all beneficiaries impartially, and most beneficiaries will appreciate that.
- ⚙️ We can withstand pressure when a wayward beneficiary asks for more from a trust than was intended, while an individual trustee might give in to requests for "more."

Inequality of inheritances



The Prevalence of Unequal Bequests

Percentage of parents with unequal bequest intentions



Source: Health and retirement study

If you die without a will, the state has a plan—the law of intestacy—for the division of your worldly possessions. The details vary from state to state, but, in general, your children each will be treated the same. According to a recent study by the National Bureau of Economic Research (NBER), that's the path chosen by about 40% of those over 50 who have children and who have not executed a will.

NBER surveyed 26,000 Americans over a 15-year period, examining trends in inheritance from 1995 through 2010. The study participants were contacted every two years to see if they had changed their testamentary plans. With a reminder every two years, one might have expected more people to attend to their will planning!

Of the 26,000 participants, 21,140 had more than one child, and 5,082 had both genetic children and stepchildren. When the study began, 84% of the respondents reported that they had treated their children equally in their wills. At the study's conclusion, that figure had fallen to 65%.

Correlations

Unequal inheritances were more common when stepchildren were present. Such parents were 30 percentage points more likely to provide differing treatment. The disparity diminished over time, the researchers found. If the relationship with a stepchild had lasted longer than seven to 10 years, the stepchild was as likely to be included in

a will as a genetic child. This was the case regardless of the age of the child when the relationship began. If the stepparent were involved in caring for the children of the stepchildren, that additional bonding was found correlated to more equal treatment among all the children.

Another key factor was contact. Parents who had no contact with at least one of their genetic children for more than a year were roughly 40 percentage points less likely to intend equal bequests than parents who remained close to all of their genetic offspring. The graph above shows the changing prevalence of unequal bequests over the period of the study.

Take charge of your family's financial future

Interestingly, the presence of stepchildren was not correlated with the likelihood of not having made a will. Without a will, children and adopted children would inherit equally, and stepchildren would be left out. The researchers speculated generally that the failure to make a will did not indicate a preference for letting the law of intestacy govern estate distribution, but rather that many people simply fear contemplating death and so put off the chore of seeing the family lawyer.

We hope that this group does not include you. Making a will, and updating it regularly, are important steps for every financially responsible person to take. If you haven't seen a lawyer about your estate planning lately, make an appointment to do so soon. □

Permanent tax freedom

The advent of the internet has revolutionized our economy. Near the beginning of that revolution, in 1998, Congress temporarily barred new taxes upon internet access, so as to remove any tax drag on the pace of innovation. The ban was renewed eight times over the years.

Now the ban will be permanent. Legislation to this effect was tacked onto the Trade Facilitation and Enforcement Act, which the President has signaled he will sign. The six states that began taxing internet access before 1998 will have to phase those taxes out by 2020.

Note that sales taxes on purchases over the internet is a separate and distinct controversy, one which hasn't yet been resolved fully.

Taxes and retirement savings

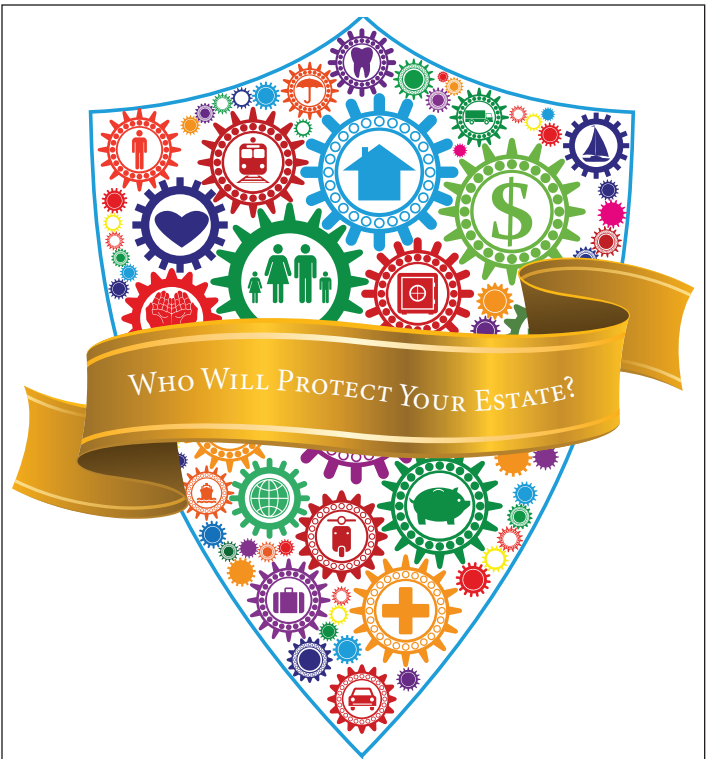
Although President Obama's recent budget isn't expected to be adopted by the Congress, many of the details are worth noting. They are indicators of what could happen should the political climate in Washington, D.C., change. Specifically, regarding retirement accounts:

Required distributions for Roth IRAs. One of the great attractions of the Roth IRA, compared to the traditional IRA, is that distributions never are required during the owner's lifetime. A change to that rule, mandating distributions, wouldn't raise revenue immediately, because most distributions from Roth IRAs are tax free. However, if the distribution were to be reinvested in a taxable account, the earnings on that account could generate revenue for the government.

Closing the "back door" to a Roth IRA. Under current law, high-income taxpayers are not allowed to make any contribution to a Roth IRA. They *are* permitted to make contributions to traditional IRAs, but those will be nondeductible contributions. In 2010 Congress removed the income limits on conversions from traditional IRAs to Roth IRAs. The reason? To raise more short-term revenue, as such conversions are fully taxable when made. That move opened a path for higher-income taxpayers to get around the nominal income limits on Roth IRA contributions, because they are allowed to convert their nondeductible traditional IRAs into Roth IRAs without regard to their income. The budget proposal would close this avenue.

Ending "stretch" IRAs. Current law allows an heir who inherits an IRA or 401(k) to stretch the required minimum distributions over his or her life expectancy, prolonging the tax deferral in the account. The President's budget calls for complete distribution of inherited retirement money within five years, unless the heir is a surviving spouse.

None of these proposals would enhance financial security in retirement, but that wasn't the point. The point would be to put a check on the aggregate amount of tax-deferred savings—perhaps because someone thinks Americans are saving "too much." □



- Inventory assets.
- Obtain professional valuations and insurance as appropriate.
- Pay just claims and defend against spurious ones.
 - File final income tax returns.
- File estate and inheritance tax returns, if needed.
 - Fund trusts, if called for in the will.
 - File accountings with the probate court.
- Distribute income or assets to beneficiaries, per the estate plan.

*This is a job for professionals.
It's one that we do every day. Call on us!*



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