

**TO:** Parent with Adult Children  
**FROM:** Kari A. Schulte, Attorney  
**RE:** Estate Planning

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This memo is a handy way to start the estate planning discussion – but please keep in mind, as individual situations differ, a full conversation is necessary to determine the best plan for a given family. This memorandum is not sufficient to cover all factors that may impact the best given plan.

**DOCUMENTS FOR YOUR PROTECTION:**

Estate planning is not solely about the distribution of assets. There are important documents to establish for your benefit while you are still alive, such as, a **Healthcare Power of Attorney / Directive** and a **General Power of Attorney**. If those documents are not in place prior to a person becoming incompetent, their family is left with little choice but to turn to the Court for the appointment of a guardian and conservator (costs more than \$1,000 and involves Court oversight).

- **Healthcare Power of Attorney**: appoints another person to make your medical decisions, but only if you are unable to make them yourself.
- **Healthcare Directive**: states your treatment wishes.

*We are happy to assist you with the Missouri Bar's Healthcare Power of Attorney / Directive at no charge. It is available here: (<http://missourilawyershelp.org/wp-content/uploads/2020/02/final-dpa-forms-fillable-2.pdf>).*

- **General Power of Attorney**: appoints another person to make non-healthcare decisions and to act on your behalf. The person(s) you appoint may write checks, pay bills, sell property and conduct other business and personal affairs for you.

**DISTRIBUTION OF YOUR ASSETS AFTER DEATH:**

There are many “tools” used for the efficient distribution of assets after death, including Trusts, LLCs, Wills, non-probate transfers, etc. A conversation is

important to develop the right plan for your specific circumstances and wishes. The following paragraphs highlight often-used “plans.”

### **Beneficiary/Will Plan:**

Many families utilize a plan where 1) they themselves do the work of listing beneficiaries for most of their assets and they engage counsel to draft 2) a **Beneficiary Deed**, 3) a **Personal Property Assignment** and 4) a **Will**.

- **Proper Beneficiary Designations:** allow you to direct assets to transfer upon death to designated beneficiaries outside of Probate. For example, as follows:
  - o *Pay-on-death designations* may be made using a bank’s beneficiary forms for financial accounts (checking, savings, CDs, investment accounts, etc.).
  - o *Transfer-on-death designations* may be made using forms at the Missouri DMV for titled assets (cars, trucks, boats, motors, trailers, etc.).
  - o *Beneficiary designations* may be listed on such things as insurance policies, stocks, bonds, LLC membership interests and shares of corporations.

Families relying on beneficiary designations to avoid Probate must be careful to add beneficiary designations to ALL of their assets.

Overlooked assets will likely end up in the Probate process.

- **Beneficiary Deed:** an effective tool for transferring ownership of real estate upon death, outside of Probate.
- **Personal Property Assignment:** an effective tool to address non-titled personal property (household goods, tools, jewelry, etc.).
- **Will:** an instruction sheet to the Probate Judge. A Will does not keep assets out of Probate; however, having a Will in place makes the Probate process smoother and less expensive. CVRS suggests everyone establish a Will, even though the goal for estate planning (for most, but not all) is to avoid Probate. There are many circumstances where Probate cannot be avoided – and those circumstances most often arise when it is too late to establish a Will.

### **Trust Plan:**

The “Beneficiary/Will Plan” is a good fit for many families. However, is not the *best* fit for every family. Often, the better choice is a “Trust Plan,” which allows

for more detail and flexibility. In general, a Trust can be thought of as a “container” for assets, where the owner places items into the “container” and sets rules for the maintenance and distribution of those assets.

Some examples of circumstances lending themselves toward a Trust Plan being the best fit are as follows:

- business or farm operations;
- first options to buy real estate;
- unequal distribution percentages among beneficiaries;
- providing for minors or a loved one in need of special care;
- providing for a loved one with financial difficulties;
- prohibiting changes to the plan after a spouse passes;
- for efficient administration in particularly large families; or
- where the beneficiaries of the estate are not in a position to easily administer the estate as a group (as in large families).

I am happy to discuss estate planning with you in more detail. Hopefully, this memo provided with some helpful background information. Most clients choose to establish the documents shaded in blue **and** *either* the Beneficiary/Will Plan (red) *or* the Trust Plan (gray). However, the “tools” within the plans can be used outside of the given “plan” and/or other tools may be added to a given plan.

If you would like to learn more and/or set up an estate planning appointment, please contact me at [kschulte@cvrslaw.com](mailto:kschulte@cvrslaw.com) or by phone at 573-691-4800. Kari