

Finding the Best Estate Planning Attorney for Your Family

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Few things are more important to the success of your estate plan than the attorney you choose to design and draft it. Almost as important is the relationship that is formed between that attorney and other professional advisors who serve you in the areas of financial advice and accounting.

All successful estate planning is the result of several professions working together for the good of the client. However, professionals of one group sometimes have misconceptions of professionals belonging to other groups. For example, the financial advisor may see the estate planning attorney as little more than a document scrivener. But this is far from the truth.

Many attorneys who limit their practice to estate planning are values-based, relationship-driven, client-centered and counseling-oriented. And the good ones are willing to work together with other professionals on your behalf. They understand that thorough estate planning involves more than just legal advice. The key is to find those attorneys who meet this description.

So where do you find these rare creatures? How do you know if you're dealing with the right kind of attorney? The right kind of attorney will have an orientation toward relationship-building and counseling rather than mere document preparation. The first thing he or she will offer is the ability to listen carefully to not only your goals — but also your hopes, dreams, and aspirations for yourself and your loved ones. The attorney will carry on a sensitive dialogue that will enable you to make clear your wishes to maintain control over your affairs, to be cared for properly in the event of a disability and to provide meaningfully for your loved ones after you are gone.

It's About More Than Just Taxes

Any competent estate planning attorney can help you navigate the legal intricacies and tax laws that pertain to the passing of wealth. But the right kind of estate planning attorney will also be interested in your desire to pass along more than just money. He or she will ask about and explain how to accomplish such things as:

- funding the education of offspring for several generations
- meeting philanthropic goals that will leave a legacy for your community
- preserving family history and stories that support the values you believe in
- continuing or divesting a family business
- caring for a surviving spouse regardless of circumstances
- and much more.

On a less positive, but equally important note, the right kind of attorney will ask about such things as:

- the complexities of the family relationships that may exist due to second marriage situations
- the special health needs of a grandchild
- the son or daughter-in-law who is not to be trusted
- the child or grandchild who is a spendthrift or suffers from substance abuse

Such in-depth counseling forms a strong foundation on which a long-term relationship is built. That relationship is important because an estate plan is not a transaction. Rather, it's an ongoing process that should be reviewed from time to time throughout your life — and potentially survives through several generations. You may choose to involve your adult children in the planning process, and the right attorney will build a relationship with them as well.

An Interdisciplinary Approach

Another trait of the right kind of attorney is true commitment to the team approach in estate planning. A good estate planning attorney recognizes that every member of the planning team (including the investment advisor, the insurance

professional and the CPA) is vital to the success of the plan. The right attorney will involve the other advisors in the long-term relationship you have to the degree that you are comfortable with that arrangement.

Legal documents are not enough. Even documents that have been drafted from in-depth counseling and are custom-designed to meet the unique needs of the client are not enough. Documents standing alone are like the proverbial automobile without fuel.

The documents’ instructions only apply to assets that are properly owned.

For example, a will only controls those things owned in the individual’s name—not jointly. The trust only controls those things owned by the trustee of the trust. An irrevocable life insurance trust works only if it is properly funded with a suitable insurance policy. Advanced entities require careful balancing of assets for maximum effectiveness. Accurate valuation of your business interests is imperative. New planning tools often require additional accounting and tax advice.

Financial and insurance advisors, as well as accountants, provide the fuel that is needed to help ensure that appropriate financial assets are allocated and funded correctly, offer necessary valuations and tax returns, and provide the means for proper balance within the plan. The estate planning attorney you work with should not only recognize these truths, but be cooperative and collegial with the other professionals that are providing these things.

Each member of the interdisciplinary team provides a cross-check for the other members. If there is disagreement among the professionals on a strategy or its implementation, it can be discussed and worked out between them as a team. After all, estate planning is both an art and a science. In this way, you are served with unanimous agreement among the professionals instead of getting contradicting advice from multiple sources. Mutual respect and clear protocols will characterize the interdisciplinary team that is working well together. Each team member will know exactly what is expected of him or her, and communication with each other and with you will be constant and clear.

As mentioned, the right kind of attorney will be focused on a long-term (even multi-generational) relationship you and your family. Therefore, the attorney will not have a transactional approach to the estate plan, but rather a process approach. An estate plan is never really done until the person doing the planning has passed away and every instruction for every beneficiary of every subsequent generation has been carried out. Those who speak of the plan in the past tense (“They did their estate plan…”) may have a shortsighted perspective.

A Strategic Process to Support the Relationships

The client-centered attorney will ensure that everything possible is done so that the plan is carried to fruition and your expectations are met.

There is nothing as constant as change. Your personal, family and financial situations change all the time. Kids get married and have children; there are divorces and remarriages; real estate and financial assets change value as the market goes up or down; a child marries someone you don’t approve of; a grandchild gets involved with drugs; you win the lottery; and so on.

In addition, laws (both tax and non-tax) change constantly. First we have an estate tax. Then we’re told the estate tax isn’t so bad. The estate tax is abolished. Oops, the estate tax is back! Assets in retirement accounts and trusts are protected from creditors and predators. But then a court in one state says that some protected assets may not be protected in certain circumstances. There’s no way that a will or a trust drafted 20 years ago (or even 5 years ago) is current with all those changes. So updating and maintenance of the plan are required in order for it to work.

The other thing that is constantly changing (or should be) is the growth and education of the attorney and every advisor working with you on your plan. Over time, new planning strategies are developed, new tools are discovered, and there are better ways to accomplish a goal. Of course, you will continue growing as well, and your goals for the plan could change.

The right estate planning attorney has systems in place to ensure he or she stays in touch with you, that the rest of the planning team knows of changes, and that there are methods to adjust the plan in light of those changes. As every member of the planning team focuses on the needs of the client, the process will run smoothly, and you will be more comfortable with the advice that is given and the decisions you make. The attorney will also be aware that for a plan to work well, the people who will help in the future need to know what’s going on.

If the children will someday serve as trustees and personal representatives, the attorney might be involved in teaching those children what to do. If ongoing trusts have been established to protect those children and grandchildren, the other advisors should be available to continue serving as advisors to the subsequent generations instead of losing that expertise and familiarity. The client-centered interdisciplinary approach can make that happen.

Your Role in the Estate Planning Process

Your role in the process is an active role, not a passive one. You should avoid the attorney who is content with simply telling you what to do, and then throwing together some documents to accomplish it. That is the attorney's plan – not yours.

In summary, if you're working with the right estate planning attorney, you should plan on being involved in three distinct steps:

1. Develop a plan with counseling-oriented (rather than document-oriented) professionals.
2. Commit you and your family to an ongoing maintenance and education program.
3. Assure that your wisdom is passed along with your wealth.

As you consider those you love, and those material things that you'll someday leave behind, only a properly designed and implemented estate plan can ensure that your goals for those loved ones are accomplished.

Many estate plans in America don't work. They often consist of fill-in-the-blank documents, delivered in a one-time transaction, and never updated. If that's all an attorney can offer, that's not the right attorney for you. Choose an attorney that is counseling-oriented, values-based, and as strong on relationships as he or she is on the law.

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