PLANNING PERSPECTIVE

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Fitzgerald Law Office

2007 marks the Fitzgerald Law Office's 5th anniversary. We appreciate the confidence that our clients have demonstrated in our abilities. It has been a privilege to work with so many families and help them accomplish their goals. We continue to expand our capabilities. We look forward to assisting you with your new challenges and opportunities.

Five-Year Review

One of the most frequently asked questions about estate planning is "How often should I review my Will?" The same question can be asked about a Revocable Trust or any other plan that we develop to address the issues that a family will face after death.

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Many problems that we see after documents are signed are directly related to changes in circumstances or misunderstandings regarding the kind of follow-through needed to make the legal documents work properly. I recommend that clients review their estate plan and important documents every five years so that these issues can be identified and cleared up.

The first step in reviewing your estate plan should be to pull out the legal documents and read them over. You should ensure that you still understand what they say. In many cases there is a good reason to make an appointment to formally review the plan. Investing some additional time will have a number of benefits:

- Updating existing documents and adding new documents that respond to changes in the law (for example, clients who signed documents before 2005 will not have documents to address the new HIPAA law that affects access to medical records).
- Reviewing the "big picture" and how beneficiary designations, deeds, and other documents coordinate with the Will or Revocable Trust to accomplish your goals. Revisiting the key issues and goals that drove your decisions and caused you to have your documents drafted the way they are.
- Every client is confident and understands their plan on the day that they sign their Will or Revocable Trust. After five years, it can be well worth the effort for us to sit down and look things over again.

Medicaid Law

Wisconsin passed its 2007 budget in October. The changes to the Medicaid law were passed at the same time. We now know more about the rules that determine who gets government benefits for nursing home and other long term care expenses.

There was no "grandfather" provision that would reward families who divested or gave away assets after February 2006. The careful and conservative advice that we have given since the law started to change thus proved to be correct. This law does allow families to plan for their future. However, there are some important points to remember in the new system:

Divestment (giving property away) is much more dangerous than in the past. You cannot imitate what someone did three or five years ago without running into problems.

There are still a number of tools available for planning. They may not be as simple as giving property away, but they can still achieve your goals.

Long term care insurance is one of the tools that work. It is worth investigating long term care insurance and talking with a financial advisor who has experience with these types of policies.

You need to start thinking about long term care and planning earlier than before. People in their 60's and early 70's cannot necessarily take the "wait and see" approach as they did in the past. If you can already see a serious medical problem on the horizon, it may be too late to use all of the planning tools that are available.

Estate Taxes Are Down, Uncertainty Is Up

There has been no change in the law regarding estate taxes in the past year. However, the current law has so many changes built into it that things continue to change anyway. For now, the Wisconsin Estate Tax will end for people who pass away between January 2008 and December 2010. The Wisconsin Estate Tax applies to estates of over $675,000, even if the estate does not pay any federal estate tax.

This is good news for families with estates of under $2,000,000 in assets. They will avoid all estate taxes if a death occurs in 2008, 2009, or 2010. For most estate plans drafted after 2002, the documents that were drafted anticipated this change, so there should be no reason to revise Wills or Revocable Trusts. However, this is one of the issues to look at when you review your documents every five years.

Federal tax law does not give another increase to the $2 million estate tax credit until January 2009. Experts and commentators are still divided regarding what the tax law will look like in the future. Nobody thinks that our current system is good, but as long as the estate tax is a political football we can offer no reassurance. We can only recommend that you be conservative, assume that the estate tax is here to stay in some form or another, and plan accordingly.

Programs and Events

- **Doug recently attended the Notre Dame Tax and Estate Planning Institute in South Bend, Indiana. Some of the nation's leading tax and estate planning experts addressed the state of federal tax legislation and planning techniques designed to help families manage their wealth and accomplish their goals.**
- **Doug continues to produce the Planning Perspective program for the local community cable television station. Recent programs focused on the issues families face after a death, probate, revocable trusts, and other tools for avoiding probate.**
- **Doug is planning a series of seminars for 2008 to review the new Medicaid law and other important topics related to estate planning.**

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