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FAIRNESS IN ESTATE PLANNING

Financial planning and estate planning are two distinctly different areas of life planning. They do, however, interact consistently and work hand in hand when planning for the preservation of wealth and the future wellbeing of your loved ones.

The essence of both estate planning and financial planning is to ensure that once you have passed away, your personal and financial goals have been met. Dealing with the issues of death, illness and the future care of loved ones is often an issue that most people fail to make a priority on their list “things to do”. However, advanced planning is essential and the advantages of having a good estate plan should be a top priority above all emotional issues.

Your first meeting with an estate planning attorney as well as your financial advisor should always be goal orientated. You must have a clear plan set forth before you can really understand the options you have as they relate to your goals. Most clients of mine are focused primarily on two items; wealth preservation and proper distribution.

Regarding wealth preservation, the main issues surround taxation. This includes transfer taxes, death taxes, and capital gains taxes. These three are a main focus in estate and financial planning for good reason. Combined, they can consume a significant part of your estate resulting in a substantially less valuable estate to be utilized for necessary distributions.

While no estate plan can avoid taxes, a good estate plan can minimize and delay the taxes due. Trusts, Limited Liability Companies, and Family Limited Partnerships can structure assets in a way that can meet your planning goals very efficiently, and are not difficult to understand and create.

Regarding proper distribution, most clients focus on equality amongst descendants and other family members. What invariably becomes the biggest factor, however, are the needs of the proposed beneficiaries. Most families face situations where one proposed beneficiary has had greater success or more hardship than others in the family and therefore may need more or less of the estate. This type of differential must be well planned. There are several methods you can employ to assist with this issue including trustee powers and trust instruments designed to specifically employ restrictions on distributions. Educational Trusts and Special Need Trusts are good examples of how you can arrange your estate in complete fairness to all concerned.



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One final note, when you are considering your estate and financial planning, don't be afraid to let your family know that you are making these types of considerations and that you have given great thought to the needs of every interested party; especially your children.

Anthony J. Medico, Esq., has practiced law for over 22 years. To ask a question for this column, or to receive Medico's free Estate Planning Survival Guide, visit his website at www.medicoandassociates.com, send an e-mail to Amedico@medicoandassociates.com or call (203) 661-8151. You can read most of his previous columns on his Greenwich Time estate planning blog on the internet. Just go to <http://www.greenwichtime.com/blogs> and scroll down until you find him under the business section. Enjoy.