HBKS® Wealth Advisors

Remarrying? Better Do Some Estate Planning

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MORE THAN HALF OF PEOPLE OVER 55 who lose a spouse to death or divorce are remarrying. It's a statistic that has increased substantially over the years. If you find yourself in this group, congratulations! But a word of warning — actually two words: *estate planning*. Whether you have a will or not, estate planning is key to addressing two very big issues: ensuring your assets — retirement accounts, life insurance, property and other valuables — will be distributed at your death as you wish, and preventing what can become ugly, drawn out family conflict.

If you die without a will, known as "intestate," a probate court in your state of residence at your death will decide how your assets will be distributed, that is, who gets what. Probate is typically a long process in that is not likely to end as you would have wished. Proper estate planning will keep your assets out of probate court and get them into the hands of your heirs as you intend, including how and when.

Retirement savings. Many retirement plans designate the spouse at the time the retirement plan is initiated as beneficiary. The designation supersedes any intention stated in your will. So if alive, an ex-spouse would get those assets — and at his or her passing they would be distributed according to his or her wishes. Planning your estate after you remarry includes changing your account beneficiaries to avoid your assets going to the wrong people.

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Your home. In most states, a house deeded jointly to you and your initial spouse automatically belongs to the surviving spouse no matter what your will says. But you can use an estate plan to leave at least your share of house ownership to someone other than your ex-spouse. Another aspect of estate planning is ensuring the title to the house is recorded properly, that is, in the most tax-advantaged way and protected from potential creditors when it is eventually sold.

Possessions. Often people want to be sure that certain items — jewelry, a property, an art or a coin collection — go to a specific person, whether that is a family member or someone outside the family. Your will must clearly specify your intentions.

Is a will a trust? A will is a document that specifies who gets your property when you die. It includes an appointee, someone legally responsible for carrying out your wishes. You can use a trust to begin distributing your assets before you die, or at your death or after; your "trustee" is your legal representative — a person or an institution like a bank or law firm — that holds legal title to the property for the trust's beneficiary. A trust lets you specify not only who gets what of your assets, but when they receive them and what they can be used for. For example, you might designate $100,000 for the college education of a grandchild.

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Durable power of attorney. Your estate plan can include the assignment of "durable power of attorney" to someone. It is often a child, but could also be a professional, such as a family advisor. As such, that individual will be responsible for handling financial matters on your behalf should you in some way become incapacitated, such as through illness or injury. You can give limited power of attorney over a specific asset, like your home or investment portfolio. And you can designate power or attorney to someone to make health decisions on your behalf — which differs from a living will, in which you specify what is to be done if you can't articulate your wishes.

Your financial advisor is your guide through the estate planning process. We provide the knowledge, clarity and documentation that allow you to ensure your wishes will be met — and supersede or accommodate earlier documents — when it is time to distribute your assets. We collaborate with your other advisors, and work with you and your heirs to see that your expectations are understood and met, and to avoid future conflicts and unintended consequences.

For more information, or to schedule an estate planning meeting, call us at (716) 672-7800; or email me at JArcoraci@hbkswealth.com.

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As principal and senior financial advisor in the HBKS® office in Fredonia, New York, Jim Arcoraci specializes in providing personal financial planning, including investments, retirement, estate planning, education funding, tax management and wealth preservation strategies. He began his financial services career in 1995.