

A 21-Point Checklist For Your Estate

By Bill Moritz, JD

- 1. Do you have a will?** A will is a legal declaration of a person's intentions concerning his or her property and the care of family members in the event of death. It is the final expression of one's character and his love for his family. Therefore, it is one of the most important documents you will sign in your lifetime.
- 2. Do you have a Durable Power of Attorney?** A Durable Power of Attorney can avoid the necessity of family members or friends having to go to court to appoint a legal custodian during an incident of incapacitation. This document allows the power holder to deal with the grantor's property as if it were his own in the event of incapacitation or disability of the grantor. It must specifically state that it is to be effective during incapacitation.
- 3. Do you have a Durable Power of Attorney for Healthcare?** The Durable Power of Attorney for Healthcare or Healthcare Proxy, as it is sometimes known, names another individual to make medical decisions for you if you are unable to make them for yourself.
- 4. Do you have a Living Will?** Most states have enacted statutes providing guidelines for Declarations As To Medical Or Surgical Treatment In The Event Of Terminal Illness, better known as a Living Will. The Living Will takes effect in the event of a terminal injury, illness or disease and a specified period of unconsciousness or being comatose. It can provide that life-sustaining procedures, which shall not include medical procedures providing nourishment and comfort from pain, be either withdrawn or withheld.
- 5. Do you have a Document Portfolio?** A Document Portfolio is a notebook or file that contains a copy of all of your important papers as well as instructions to your personal representative on how to handle your estate. It is often referred to as a "widow's survival kit" - since four out of five women will be widowed.
- 6. Do you have a locations list for your important papers?** A locations list should be placed in your Document Portfolio listing where all of the originals of your important documents can be found.
- 7. Do you have a list of Professional Advisors?** The list of Professional Advisors should also be found in your Document Portfolio. It is a list of advisors such as your attorney, accountant, life insurance agent, doctor, benefits person at work, etc., who could help advise your loved ones in the event that something happens to you.
- 8. Do you have Funeral and Burial Instructions?** These are very difficult decisions for your loved ones to make after your death. It can be a comfort to all if you have expressed your desires in a set of instructions or have made your own arrangements. This is especially important if you would like to be cremated.
- 9. Do you have a Personal Property Memorandum?** The law now allows you to designate a Personal Property Memorandum for the disposition of your personal property. This should be referenced in your will and is a list that is attached to your will which states who will get which items of

personal property after your death. Items can be added or deleted without going back to your attorney.

10. **Do you have a recent payment schedule for your social security?** You can receive from the Social Security Administration a statement showing the amount of money you have paid into social security and an estimate of your future benefits.

11. **Do you have an Estate Letter expressing your wishes to your personal representative?** An Estate Letter is a set of instructions for your personal representative that sets out your wishes regarding how your estate should be administered. It is not legally binding, but can assist your representative and help him or her to better understand your wishes.

12. **Check the primary beneficiary and contingent beneficiary on your life insurance policies to make sure that they are still accurate.** A child may have been left off as a contingent beneficiary because the policy was in effect before his or her birth.

13. **Check the primary beneficiary and contingent beneficiary on your retirement plan.** It may have been set up when you first went to work for an employer and may not contain all of your children or even your spouse. Your spouse should usually be the primary beneficiary since it can pass to him or her without being taxed at your death.

14. **Check your beneficiary designation on any IRAs.** Because income tax has never been paid on the money in an IRA, normally after your death, the person receiving the money must pay the income tax. If you are married, your spouse can maintain the IRA and only pay income tax on money that is taken out of the account. In most cases your spouse should be the primary beneficiary on the account, and then the secondary can be your children or other beneficiaries. If you plan on making a charitable gift from your estate, listing a charity as a contingent beneficiary will save tax since the charity will be exempt from the income tax due.

15. **Check the title on your bank accounts.** For most couples, bank accounts should be held in joint tenancy. You can also make POD (payable on death) provision on your bank account so that, at death, the account is automatically paid over to the person you designate without going through the probate process.

16. **Check the title on your cars.** If you are married, the titles to all of your cars should be held in joint tenancy so that if anything happens to one of you the other will be able to deal with the car without court approval.

17. **Check the title on all deeds for real property.** Real estate is usually held by couples in joint tenancy- which means that at the death of the first spouse the second spouse becomes the sole owner of the property by law, regardless of the first spouse's will. Joint tenancy, while very desirable between husband and wife, is usually not a good idea outside of the marital relationship.

18. **Check your personal exemptions on your W-4 Form.** If you had to pay additional income tax when you filed your tax return, you may want to reduce the number of dependents that you listed on your W-4 form at work. This will cause them to withhold more from your paycheck for income taxes. If you received a large tax refund, then you may want to increase the number of your dependents so that less will be withheld from your paycheck.

19. **Have you appointed Guardians for your children?** If you have minor children, then you definitely need to have a will because the will is the document that appoints guardians for your children in the event of your death. Without the formal appointment of guardians, this decision will be

left up to a court to decide in the event of the death of both parents. With minor children, you also need to have a trust in order to hold money and assets going to minor children.

20. **Have you made an organ donation?** Organ or body donation information should be on the back of your driver's license or kept on your person. If you list this in your will or with your healthcare forms, the health professionals may not find the information in time.

21. **Have you provided for charity in your estate plan?** An important part of estate and financial planning for you may involve maximizing the effectiveness of your charitable giving to support the charities that are important to you. Gifts given at death from a will or trust are known as charitable bequests. General bequests may allow a specific sum of money or a designated percentage of your estate to go to a church or charity at your death. Specific items of property can also be named. A designated percentage is most often the best choice because, usually, it will more accurately reflect your priorities. A residual clause may designate the remainder of your estate or a portion of that remainder to go to a church or charity after the needs of loved ones have been met. Specific bequests can be made to family and friends- and then anything left over in the estate goes to the charitable organization. A contingent bequest is rarely utilized, but can be one of the most attractive options available to families who don't believe that their estate is large enough to make a bequest to a church or charity. In the will or trust, the donor uses language which reflects that, should none of the heirs survive him or her at the time of their death, then a portion or all of the estate should go to charity. People who wish to provide for their immediate family would like to see at least part of their estate go to charity, instead of distant relatives, should their spouse and children predecease them or die at the same time.