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Establishing an Estate Plan—You Might Not Like the Alternatives

By James P. Sanford, Director

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Between the ages of 25 and 62, most people will work 74,000 hours in accumulating an estate (such as a house, insurance, stock and savings), yet few people will spend more than a total of 10 hours in establishing their estate plan. An article in the *Wall Street Journal* of October 27, 1980, reported that two-thirds of 120 accountants attending a recent tax seminar in Dallas acknowledged that they had not written a will.

Why do people procrastinate when it comes to the adoption of an estate plan and the drafting of a will to reflect this plan? Estate planning is often avoided because it forces people to plan for their own death, and most people don't like to think about that subject.

Nevertheless, estate planning can be a positive, emotionally satisfying experience. "Philosophers, psychiatrists, and religious scholars stress that death should be dealt with before it is imminent, because only by giving meaning to death can one give meaning to life."* Thus, in adopting an estate plan we will reduce our anxiety about death and free our emotional energies for our life-time activities.

Sometimes people delay in adopting an estate plan because "it's just too complicated." Lawyers, C.P.A.'s, C.L.U.'s, and bank trust officials use terms such as "living trusts," "testamentary trusts," "pour-over wills," "joint tenancy," "probate," and "personal representative." Different professionals recommend different estate plans. In addition, it is often extremely difficult for the estate owner to discuss with a stranger (the estate planner) his or her feelings toward various family members and the full extent of the estate.

However, the consequences of not establishing a well thought-out plan can be disastrous.

For instance, each state has slightly different rules as to how your property is distributed if you die without a will. In Michigan if the decedent is survived by a spouse and children, one or more of whom is not a child of the surviving spouse, and/or grandchildren, then the spouse will receive one half of the probate estate and the children (natural or adopted children of the decedent) will receive the remaining half. Note what happens in the following situation.

Fred and Mary, both age 65, got married in 1980. Both had children by previous marriages and neither has a will. All of their assets, consisting of a bank account of \$200,000 and a house worth \$100,000, are held in joint name with right of survivorship. When Fred dies, Mary will automatically inherit all of the property. One year later, when Mary dies, all of the property will go to Mary's children. Fred's children will receive nothing.

There are three lessons to be learned from this example. First, assuming it was the intent of Fred and Mary to leave their property equally to all of their children, by not incorporating their intent into an estate plan, Fred and Mary have caused their children (certainly Fred's children) an unnecessary hardship.

Secondly, note that a will or the law of intestate succession (the law if you don't have a will) applies only to property that passes through probate. If Fred had a will, it would have been ineffective since joint tenancy with right of survivorship causes the property to pass to the surviving joint owner regardless of what is stated in the will. Thus, an effective estate plan must consider how property is titled, who are the beneficiaries of insurance policies and

trust arrangements, and how the will coordinates these factors.

Third, Fred and Mary could have saved their children thousands of dollars in death transfer costs, i.e., federal estate taxes and probate fees, with an effective estate plan.

When adopting an estate plan, think carefully about the consequences. For instance, I am familiar with a situation in which a single parent had a will which left everything to his children upon her death. Unexpectedly, the parent died and left \$200,000 to her two children aged 18 and 19. Since the children were of legal age, they received the money immediately. Within two years they had squandered all of the money on traveling, fancy cars, and the "good life." Wouldn't it have been better to provide first for a college education and then have the balance of the money distributed to them at age 28 or 30?

In future articles I will explore the objectives of the estate planning process and attempt to remove the mysteries of this subject by discussing various topics. If readers of this article have specific estate planning topics they would like me to address in the future, please call me at my office at 456-6277.

Seidman College Students Attend National Conference

Four undergraduate business students in Seidman College and members of the Grand Valley Chapter of the American Marketing Association attended the A.M.A. National Collegiate Chapter Conference, April 10-12. These students had the opportunity to interact with students

from other business schools in the country and to participate in a number of sessions on improving the activities and effectiveness of student chapters. Seidman students attending were Paul Schweitzer, Scott Dunham, Jennifer Clevidence, and Barbara Ricca.

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The manuscript, "Faculty Attitudes Toward Unionization at 32 Unionized and 32 Non-Unionized Institutions in the Northeast Region of the United States," co-authored by Dr. Earl Harper (Seidman College of Business, Dr. David B. Stephens (University of Texas at El Paso), and Dr. Faite R. P. Mack (School of Education), has been accepted for publication by the journal *Education*.

"Higher Education for the Personnel Manager," by Dr. Earl Harper, in *Personnel Journal* (March, 1981, Vol. 60, No. 3).

"Superior-Subordinate Communication," by Dr. Jitendra Sharma, Professor of Management, in *Management Quarterly* (Fall, 1980, Vol. 21, No. 3).

"Conceptualization vs. Vocationalism in Marketing Education," by Dr. Bennett Rudolph, Associate Professor of Marketing, in *The Journal of Marketing Education* (forthcoming issue).

"The Alcoholic Employee—a Review," by Dr. John Hodge, Associate Professor of Management, in *Management Quarterly* (Fall, 1980, Vol. 21, No. 3).

**Estate Planners Quarterly*, Booklet No. 403 (12-70).