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| The Empowered Wealth Protection  Plan |
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| INTRODUCTIONTHE ESTATE PLANNING INDUSTRY IS AT A CROSSROADS, Your family isn’t, at least not today. But the decisions you make today may make all the difference in how your family navigates the crossroads moments to come – and they’re likely to be heavily and negatively affected by how so called “Estate-Planners” advise you.  After years of thinking “we need to get some information in the form of a report to the public", I finally concluded that the risks facing families are just too high to not get it out now. So, voilà here is the empowered wealth protection planning report. This report is about empowering you and your family to create, maintain, and implement a successful estate plan, a plan that actually works. No matter how you’re currently positioned my goal is to help you begin the process of putting together a plan that actually works for you and your family – and the time to get started is right now.  You may be a young parent with few assets but a lot of responsibility . Perhaps you are a pre—retiree finally building your net worth now that the kids have been educated. Many readers pick up reports like these because the retirees recognizing that this “estate planning thing” might now actually need to be considered a reality. Still others are caregivers faced with a health crisis in their family.  You may have very specific concerns like transferring a business, or farm/ranch, handling complex assets like retirement plans, or leaving a charitable legacy consistent with your personal beliefs. In every case, NOW is the time to get started and to update any planning you may have done before, if any. In any and all the situations how, you obtain and follow estate planning advice can make a world of difference. Done correctly, an estate plan that works can address these and a host of other concerns better and more fully than what most people except as “their plan”.  With proper planning, you can be:   * Empowered to ensure your children are raised in the way you intend, with proper guidance and resources * Empowered to maintain control of your finances as long as that make sense – in your opinion! And to transfer the distinctions and approaches you’ve discovered, including those who helped you the most, on to your loved ones * Empowered to design and implement a plan to ensure you are cared for in your later years and the way you prefer, and without unnecessary stress and regret on the part of your caregivers * Empowered is a surviving spouse or partner to better handle the grieving. And your move to your new normal whatever that turns out to be for you – possibly even including remarriage! * Empowered to protect your love ones from life risks such as lawsuit creditors, failed marriages, and catastrophic illness * Empowered as an inheritor to better use your inheritance to meet your own goals with comfort and confidence * Empowered to leave a legacy more than just financial that reflects your own values and beliefs   The plan that is right for you we simply call your Empowered Wealth Protection Plan. In short, it is my goal to show you how to empower yourself and your family through your decision to participate in a lifelong process of estate planning. This is markedly different than “doing your estate plan”. Signing documents is an Event. Planning is an ongoing process. In this simple distinction has escaped both the legal and the financial professions for far too long.  The Three Step Process  The process of creating, maintaining and implementing an Empowered Wealth Protection Plan that works follows a carefully constructed three-step process. First, you will need to DEVELOP your plan with counseling-oriented planning partners. Once the initial design of your plan is complete, you will need to COMMIT yourself and your family to a formal maintenance and education program. Finally, you will want to make sure you SECURE appropriate assistance to ensure that your wisdom is transferred along with the rest of your wealth.  We will discuss each of these three steps in this report. They are interdependent, and no plan will result in you and your family being fully empowered without intentional attention to each step.  As we begin our journey together, I would like to set the stage by sharing some editorial comments and also a warning. The observations I’ll share reflect my own personal experience in my private law firm the Law Office of James L. Moore, PC and my collaborative partnership with Richard Kerbawy, JD Wilson, Lett & Kerbawy, PLC, as well as my long-term experience obtained in working with my colleagues in the wealth Council of estate planning attorneys. I hope to address some of the major things that may get in your way as you consider pursuing planning for yourself and your family.  Obstacles to Planning-The Crossroads  the very first observation in this overview was that the estate planning industry is at a crossroads. And that you are at risk of being negatively affected by how so called “estate planners” advise you. It’s always been difficult for people to address this subject of estate planning – it can be morbid, intimidating, and confusing. So difficult, in fact, that fully two thirds of Americans simply haven’t done anything about it.  Today more than ever before, however, the estate planning industry is providing dangerous information and approaches masquerading as advice. This so-called advice threatens to lull you into doing bad planning, or worse yet, no planning at all!  Let’s discuss four of the major optics to goals to ensure you and your family do not fall for this miseducation. They are:   * The TAX TRAP—No Need * The TRANSFER TRAP—TOD and planning with the “Box” * The NURSING HOME SCARE—Bait and Switch * The MYTH OF ONLINE PLANNING—An even Bigger Bait and Switch.   Each of these is so-called advice created and given by the estate planning industry (which includes financial, accounting, and legal professionals). They reflect the training and assumptions of the professionals themselves. We found most of this advice is incomplete at best and outright dangerous at worst.  The Four Obstacles Examined  Let’s take each obstacle one at a time. First, there is the TAX TRAP. This obstacle comes from a professional’s mindset that estate planning equals tax planning. In fact, nothing could be further from the truth. As we’ve just discussed, there are a whole host of planning goals that have nothing at all to do with tax. The education of the estate planning industry was dramatically impacted by the use of living trust planning. In the 90s free seminars “spread the word” across the country at breathtaking speed. Because estate planning was then viewed as complicated and only for the rich, there had been up until then an almost complete void when it came to general education for the rest of the public.  As a result, living trust seminars were highly criticized by the organized legal professional bar associations, financial advisors and the public were highly energized. Estate planning of all types – both will and trust-based – increased dramatically because information was made available as had never been done before. Unfortunately, the structure of these seminars form the basis for the education of the public, and for many professionals as well. In fact, generation of “estate planners” have bought into this miseducation and worse yet continue to teach it to their clients to this day.  This message was, and still is, that there are two main goals to an estate plan. Those are avoiding probate and reducing or avoiding estate taxes. The TAX TRAP obviously involves the second goal. It is more dangerous now than ever before because of recent tax law changes. Under current law, less than 1% Of Families Will Face a Federal Estate tax problem. As a result, it is assumed by many clients as well as advisors that there is simply no need to plan.  For decades, the most common objection to pursuing planning, especially trust planning, has been that it’s only for “the rich”. This concept would be amusing if it were not so serious. In my private practice, I quickly learned that a client’s definition of “rich” is “more than what I have now!”  THE TRANSFER TRAP  A related obstacle harkens back to those original assumptions about planning. This one involves avoiding probate. On this front there have been many ways to avoid probate. The original living trust seminars to do good job of explaining why the most traditional approaches (especially owning property jointly with others) would actually create more problems than they solved.  Today, however, the financial industry has successfully pushed alternate means of transferring property without probate through the titling of financial accounts. Not too long ago, only a few accounts could be designated as “Payable On Death”. In those limited instances accounts could be transferred without probate.  Today, in Michigan, all types of accounts can be designated as “Transfer On Death” or TOD. These accounts allow a person to name a beneficiary and to transfer the account without the need for a probate court order. In fact, Michigan has gone so far as to allow so-called “Lady Bird Deeds” which create a life estate in the primary owner which in some instances would allow real estate to be transferred without probate.  This enticing development appeals to people for a couple of reasons that match way many people never pursue estate planning. One is cost, the other is the desire to avoid dealing with lawyers.  Note that is not just the public that likes this idea and this approach – it is heavily promoted by financial advisors. These folks (rightfully in many cases)’s believe that lawyers only complicate the process – that they are essentially “deal killers”. Recommending this type of “non-planning” allows the financial advisor to retain control, avoid fighting with the deal killers, and get credit with their client supposedly for both saving them money and avoiding complications. A win – win – if only the strategy would work, which it doesn’t!  The problem with this TRAP is that done properly estate planning is not only about getting property to your loved ones without court orders or the involvement of lawyers; but also to reach many personal planning goals we need to leave instructions – and that’s best done with trust planning.  In addition to TOD planning there is the problem with what we refer to as “the box”. This term refers to planning with beneficiary designations. You simply fill in the form by checking “The Box”.  Most clients own much of their wealth in assets controlled by beneficiary designations. These include retirement funds in IRAs and 401(k) accounts, life insurance, and annuity contracts. The problem with TOD accounts and/or just checking the box is that there is no way to leave any instructions as you pass these assets on to your loved ones. It’s much better to leave detailed instructions for your own care for example should you become disabled. You can also provide protections from your love ones from their creditors and predators. There is absolutely no way to do this by simply using TOD accounts were just by checking “The Box”.  In short, you CAN avoid the probate court and obtain the advice and counsel of an attorney who can empower you and your family to reach goals most people are unaware they even have. The so-called feared attorney deal killer can actually turn out to be a trusted advisor who contributes greatly to your planning!  In our process we BEGIN with a get acquainted meeting designed to combat the incorrect and incomplete education normally provided to client families. Take another look at some of the common empowered goals listed above – you will see that avoiding probate is not the goal it’s a necessity. And one you don’t need to give up as you achieve all of the other goals. With a properly supported trust – based plan, based on an Empowered Wealth Protection Plan you will be able to meet all of your planning goals at the same time also avoiding probate.  THE NURSING HOME SCARE  In recent years, advances in medical science have allowed us to live longer, although not necessarily better. It is well-known that the cost of medical care is out of control. The government supports elders through Medicare. Many people are shocked to discover that Medicare DOES NOT provide ongoing support for what is known as “custodial care”. That is, helping people manage their daily living, as opposed to care provided to help people recover from illness which it is designed to cover.  Regardless of whether the healthcare needs a person faces involves stay – at – home care support or assisted living in a variety of outside – the – home venues, the formidable costs are now becoming well-known. These costs are a massive threat to wealth. And the people most at risk are those with smaller balance sheets, the very ones who think they don’t need and can afford planning.  Advertising for public seminars conducted by lawyers and financial advisors today feeds on the fear of “losing it all to the nursing home”. Once a person attends, however, they discover that the planning vehicles and techniques suggested require losing control of their assets TODAY. So instead, the seminar leader suggests, perhaps at a later consultation or doing the question/answer session, why not rearrange your assets in such a way that leaves you in control today and do your disability and/or nursing home avoidance planning later? For these presenters, this may very well have been there goal from the beginning. A classic BAIT and SWITCH.  In turn financial advisors regularly recommend that elders place their assets in an annuity contract “specially designed” to not count in the asset requirements for Medicaid qualification problem the problem with these annuities is that in several instances depending on the structure and advice those assets will not be available to the elders family following death.  These programs do provide some valuable education, particularly in helping people understand the difference between Medicare, which does not help with custodial expenses and Medicaid where more often than not the solutions presented are incomplete at best and in accurate at worst. The trick, they teach, is to get assistance. Unload your assets, impoverish yourself, and let the government pay the bills. In both instances the planning suggested by legal and financial advisors involves waiting to the last minute, or even beyond, a problem that routinely strikes families.  Aging is a normal part of life. Navigating the healthcare system and addressing whatever comes at you is something both you and your family might very well face. Why not deal with the concern in advance? Doing so allows you both more options and more control over how you approach her final years. An Empowered Wealth Protection Plan allows you to do just that – together as a family.  DO plan in advance. But DON’T fall for the scare tactics instead, pursue planning for ALL of your life needs. Make sure you and your family are prepared as far in advance as possible. This is what the supporting process we recommend is all about. You will be ready to deal with life as it occurs no matter what comes along.  And, if it turns out moving assets out of your control is appropriate, you’ll be the one to direct the timing and appropriateness of that step yourself. Either way, your family will certainly face the situation with more comfort and confidence. You’ll also likely be pleasantly surprised that you’re more likely to incur much lower legal fees.  THE MYTH OF ON-LINE PLANNING  This obstacle to quality planning is fueled primarily by cost concerns. Today it seems that everything is available on the Internet. Legal documents are no exception. In fact, ads touting Legal Zoom are virtually inescapable.  In all of our workshops and seminars we have stressed for over 30 years that clients should be aware of the attorneys “classified trade secret”. After a pause we simply ask “did you know that lawyers have computers?” it always draws a laugh.  Fortunately, today attorneys don’t use parchment and a quill pen to custom draft your plan – it would be completely unaffordable if they did. The question, then, is not whether we use technology, but how do we use technology and for what purpose?  Legal Zoom and its predictable competitors know springing up like mushrooms pray on those who don’t take the time to educate themselves. In fact, after a lot of pressure on this issue, they offer a consultation with an attorney for those who wish to seek further advice. This consultation unfortunately often turns out to be little more than an upsell opportunity for the law firm that receives those referrals.  We are not suggesting at all that you should avoid technology. We are suggesting that you think about its proper place. An estate plan is not simply a set of word-processed documents dashed off and that’s more often than not what you get too often when working with traditional attorneys.  The documents themselves are worthless without knowing what you can accomplish and how you and your family can pursue the goals you choose. In short, technology is the key to progress in estate planning, as in most areas of life. The organized State Bar seems intent on denying the use of technology rather than explaining how it’s best embraced. Just as they resisted family controlled living trust based plans when those were the “new thing”. And, like before, they were howling at the wind.Technology will continue to change everything. None of us, not even all of us, can stop the coming changes. So, the sooner we put technology to proper use the better.  What I’m suggesting is that you use your own good common sense as you apply technology to estate planning. Keep in mind an unfortunate truth. Striving for the lowest cost plan more often than not results in MORE expensive mistakes that have to be addressed by the very lawyers you sought to avoid. Often mass-produced approaches can result in you not even realizing what goals you have that can be addressed through quality planning.  I strongly recommend that you consider both the direct and indirect costs of boilerplate planning as you develop your estate plan. Please be sure that you’re working with your own professional advisors, and that they use technology to support a personalized, customized environment and plan for you and your family and to actually build together a plan that will work when you need it.  Notice I said” advisors” with an “s”. Nothing matches a team of advisers you build around you to help you and your family discover, pursue, and reach your goals. You will likely find that you’ll get more value when working with a team of professionals, and that your overall planning project often will surprisingly cost much less in the long run. Please do not fall for the Myth of online planning. Way more often than not it isn’t less expensive and in many ways it isn’t even an even planning at all.  THE TRUTH ABOUT ESTATE PLANNING  in my book Family Wealth Protection Planning, (available for free on our website) I have shared the insights and experiences I’ve had from the get acquainted meetings we provide for our clients. Our goal is NOT to answer the questions you have right at this moment, but rather to answer the questions you either should have known to ask or the questions you would ask if you knew what we know!  The point of getting professional advice is to acquire a trusted advisor and an experienced guide to assist you and your family with your journey. My book is designed to get you started on your path aided by insights, lessons, and approaches developed through our years of experience working with hundreds of client families over the past three decades.  HERE'S THE BOTTOM LINE  Please understand me when I tell you that I’ve covered a lot of ground in my book. The amount of the new information can certainly feel overwhelming.  That said, can I invite you to just fully involve yourself and your family so we can boil the project down to just five – not 500- things you and they need to address.  THE FIVE ESSENTIAL THINGS  In order to create and maintain a plan that works for you and your family, there are five things you must understand and pursue over the lifetime of the project. We’re assuming you’ve empowered your family members as well by ensuring that they participate in ongoing education and training as helpers and/or beneficiaries, as well as willingly participating in open discussions with you about your family planning that is job one. It’s not easy to get participation, but it makes all the difference in the success of your planning effort. Why not call a family huddle?  With everyone involved, the planning complexity shrinks dramatically. Not 500, but five:  Here they are:   * Regularly update your planning documents * Regularly update your asset titling * Personalize your plan with individual instructions * Know when to seek additional counseling * Understand the use of a trust director   As part of our seminars, workshops, reports and articles available on our website, and my book, you can get yourself prepared for successful implementation of a plan that will actually work for you and your loved ones. Peace of mind not just a piece of paper.  So, that’s where we are headed. I’m excited to help you “start the planning process”!  Call us today for a free “Get Acquainted Meeting” 616-345-2900 or go to our website [www.lawofficesofjameslmoore.com](http://www.lawofficesofjameslmoore.com), and fill out the “contact” form.  All the best!! Moore & Kerbawy, Counsellors At Law. |
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