PLANNING *for Today's Concerns*

In This Issue
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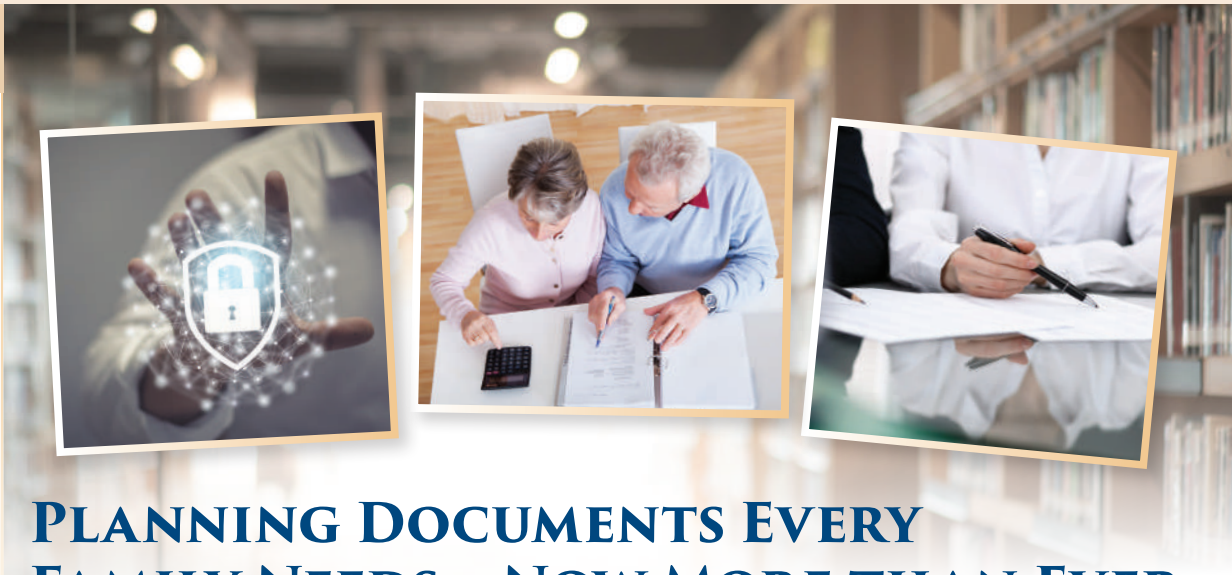


Planning Documents Every Family Needs... Now More than Ever

The outbreak of COVID-19 represents a threat to both our physical and our emotional well-being. It reminds us that we live in an uncertain world. Proper planning allows us to take control of our personal and financial affairs now and in the future. In a time like this, planning is more important than ever... and having the following legal documents in place is essential.

A **Power of Attorney** allows an individual to name someone (the Agent) to act on his or her behalf in the event of incapacity. The Agent can make decisions regarding property as well as legal, financial, and personal matters.

A **Living Will** details a person's wishes concerning his or her medical care, including artificial life support, surgery, or other medical treatments related to an end of life situation or permanent unconsciousness. Similarly, a **Healthcare Proxy** names a trusted person to make medical decisions on behalf of an individual who has become incapacitated.

A **HIPAA Medical Release** allows people to specify who has access to their medical information. Without a HIPAA Release, family members may be denied access to information about a loved one's medical condition in an emergency.

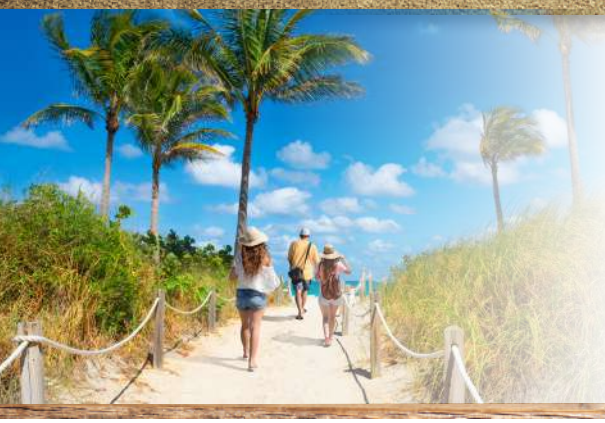
A **Will** directs how a person's estate is to be administered and how his or her assets will be distributed after death. A Will also allows guardians to be named for minor children in the event something terrible happens to both parents.

Effective estate planning can include many other strategies and tools to accomplish a wide range of goals, but the above documents are absolutely essential in carrying out your wishes and providing a degree of certainty in an uncertain world.

If you don't have all of these documents, or your existing documents need to be updated, please contact us at your earliest convenience. In addition to meeting with us in-person at our office, you can "meet" with us virtually using video conferencing or over the phone.

Russo Law Group, P.C.
Estate Planning, Elder Law & Special Needs

PHONE 800-680-1717
Garden City | Lido Beach | Islandia | Bay Shore | Manhattan
WEB www.vjrussolaw.com



Estate Planning Challenges For Owners Of Vacation Homes

Owning a vacation home is a dream come true for many families, but it presents planning challenges for those who want to keep the home in the family for generations to come. Here are two options to help you accomplish this goal.

Limited Liability Company

If you want to transfer your vacation home to several children in equal shares, a Limited Liability Company (LLC) can help you do so. An LLC allows you to maintain some control over the property while simultaneously laying the foundation for a smooth transition of ownership. Putting your vacation home in an LLC also protects members of your family against liability related to the home.

Qualified Personal Residence Trust

Another way to transfer your vacation home to your children is through a Qualified Personal Residence Trust (QPRT).

This may be a good choice if you and your spouse rarely use the home anymore. When the QPRT expires, ownership of the home transfers to the trust's beneficiaries, in this case, your children.

What if your vacation home is located in a different state than the one in which you legally reside? Without proper planning, the vacation home may have to go through that state's probate process after you pass away. A relatively simple way to avoid this is to put ownership of your vacation home into a Revocable Living Trust and name your children as beneficiaries. This will streamline the transfer of ownership to your children.

Contact us at your earliest convenience for a virtual meeting.

Estate Planning For Young Families

As you might expect, the percentage of Americans with wills and other estate planning documents increases with age. Approximately 80 percent of those age 72 or older have a will. But what about younger Americans? According to a study by Caring.com, 78 percent of millennials and 64 percent of Generation Xers do not have a will, let alone a comprehensive estate plan.

This is most unfortunate, because everyone can benefit from estate planning. If you have minor children, however, an estate plan is critically important. Why? If something terrible happened to you and your spouse, who would care for your minor children?

A Will allows you to name a guardian for your minor children. Without a Will, the court will select a guardian and your children could be raised by someone you never would have chosen yourself.

Or there could be a lengthy, expensive, and stressful battle between members of your extended family over who will get custody of your children. At the very least, young couples with minor children should have a Will that stipulates guardians for the children.

Proper planning can also help ensure your children will have money to pay for a college education. A 529 college savings plan, which is offered on the state level, allows you to create a savings account for college that is exempt from federal taxes. Some of these plans allow for the use of various investment options. Others, known as prepaid tuition plans, let you lock in at the current cost of tuition instead of the future cost.

Another factor to consider is what will happen when your children turn 18.

If you have left them an inheritance, will they be mature enough to manage it responsibly or will they squander it on youthful whims? What if they fall under the influence of unscrupulous predators looking to take a portion or all of the inheritance for themselves? Estate planning allows you to protect your children's inheritances until they are responsible enough to manage them on their own.

The Importance of Having a HIPAA Release

Let's consider another scenario. You and your spouse are fine, your oldest son is 18, and he is attending college far from home. He gets into a car accident and is hospitalized. When you hear about this, you immediately contact the hospital to check on his condition, but the hospital refuses to tell you anything. You explain for the tenth time that he's your son and you have the right to know what's going on, but the hospital won't divulge anything at all.

When your children turn 18, they are considered legal adults and their medical information is protected under the Health Insurance Portability and Accountability Act (HIPAA). In the above scenario, the hospital could be prosecuted for violating HIPAA if it reveals your son's condition. A HIPAA Release Form authorizes the release of medical information to those named in the document. You want to be sure that your young adult children sign HIPAA releases naming you as a person authorized to receive information about their medical condition.

RUSSO LAW GROUP, P.C.
Estate Planning, Elder Law & Special Needs

100 Quentin Roosevelt Blvd. | Suite 102
Garden City, NY 11530

UTMA (Unified Gift to Minors Act) Custodian Accounts – Protect Your Children From Their Money

A child's very first account is likely a custodial account established at a bank, brokerage firm or with a mutual fund company. The goal is to provide for life milestones of the minor such as college or homeownership. Although the Unified Transfer to Minors Act ("UTMA") provides an inexpensive and expedient arrangement for accumulating wealth on behalf of a minor, there are some drawbacks.

Custodial Account Drawbacks

These accounts are used to hold assets until the minor attains the age of majority in accordance with the State's rules. In New York, the minor is legally entitled to 100% of the proceeds upon attaining the age of twenty-one (21), unless the donor specifically stipulates age eighteen (18) as the age of majority. Even at age 21, most parents do not trust their children's decisions to invest or spend the funds prudently.

Once a gift is made to a UTMA account, the account is irrevocable. The funds deposited to the account cannot be returned to the donor who transferred the monies in. However, the custodian has full discretion to utilize the funds in the account for the use and benefit of the minor without a court order.

Financial Aid Concerns

As to tax analysis, custodial accounts are considered an asset of the child and are counted against financial aid.

If a minor's interest income plus dividends total more than $1,900 in one year, then the account will also be subject to the "Kiddie Tax". A portion of the minor's UTMA interest income will be taxed at the tax rate of his or her parents or legal guardian instead of the lower tax bracket that the child would have been in.

A Living Trust

A better approach that would eliminate the investment and spending uncertainty of a 21-year-old, is to create an inter-vivos (living) trust for the minor that holds the monies one would otherwise gift to a UTMA account. The trust could have as many beneficiaries as the grantor (donor) desires and provisions as to the use of the trust principal and/or income for the benefit of the minor that is tailored in accordance with the wishes of the grantor creating the trust. Most importantly, the trust could continue until the minor attains a specified, perhaps more mature age (i.e., 35) or even for the life of the person.