



Cutchin Law Firm

Simple Wills and Complex Estate Planning
Probate | Corporation and LLC Formation

Why You Need Estate Planning (and taxes are only one small reason)

Unfortunately, taxes are one of the major reasons people finally get around to doing their Estate Planning. The first thing many people tell me is “I don’t want the government to get anything!!” In December, 2010, Congress passed, and the President signed, a new tax law. In it, the exemption from Estate Taxes was increased to \$5,000,000 per person, with a married couple effectively having an exemption of \$10,000,000. These limits will be in effect for at least 2011 and 2012.

With the change in tax law, is Estate Planning still needed? Even with the change in the tax situation, you still need proper Estate Planning. And, even if you are worth less than \$5,000,000 (or \$10,000,000) (as many of my clients are), you still need to plan for your estate.

Some of the non-tax related benefits of Estate Planning include:

- **Health Care Documents** – who will make medical decisions for you if you are not able to do so? If you are in an accident, have a heart attack, or suffer from almost any serious medical problem, do you have someone you love and trust named to make medical decisions for you? ***If you want the correct person to make medical decisions for you, YOU NEED ESTATE PLANNING.***
- **HIPAA Authorization** - Doctors, hospitals, and other medical providers are now unable to give your loved ones, including your spouse and children, full information about your medical condition unless your loved ones have a proper authorization for that information. ***If you don’t want to leave your family “in the dark” about your medical conditions, YOU NEED ESTATE PLANNING.***
- **Probate Avoidance** – If you die without a will, or even if you die with a will, you are forcing your loved ones to go through the Probate process. ***If you want to avoid court and government interference with your assets and loved ones upon your death, YOU NEED ESTATE PLANNING.***
- **Naming a Guardian for Your Minor Children** – There are only two ways in South Carolina to name the guardian(s) of your choice for your minor children, and I do not recommend one of them. The method I never recommend is that you may name the guardian in a deed (my personal belief is that children are much more important than land). The only other way is in a Will. ***If you have minor children and want to take care of them, YOU NEED ESTATE PLANNING.***
- **Special Needs Family Members** – Are any of your loved ones receiving Medicaid? Did you know that if you leave them assets they will probably become ineligible to continue receiving the Medicaid? With a Special Needs Trust, they can benefit from the assets you give them AND continue to receive Medicaid. ***If you have a Special Needs Person, YOU NEED ESTATE PLANNING.***
- **Remarriage Protection** – Have you thought about a situation where you die and your spouse remarries? What happens to the assets you left your spouse? Do they go to your spouse’s new husband or wife upon the death of your spouse instead of to your children? How do you protect against this happening? ***If you want to be sure your children receive their inheritance, YOU NEED ESTATE PLANNING.***

- **Avoiding Guardianship for Yourself** – If you should become unable to take care of your assets as a result of an illness or accident, who will take care of them for you? If you answered your spouse or your children, you may be wrong!! In South Carolina, your spouse and children have no legal right to do anything with your assets. The Probate Court will decide who takes care of what. And do you want the government to control who and how your assets are taken care of, or do you want to control that yourself? ***If you want the ability to have someone you choose take care of your assets, YOU NEED ESTATE PLANNING.***
- **Personal Items** – Do you have certain personal items, which usually have more sentimental value than actual cash value, to go to certain people upon your death? Unless you plan ahead, those treasured items could go to someone who does not even appreciate them. By planning, you can sleep at night knowing those things will go the way you want them to. ***If you are concerned about any of your personal items, YOU NEED ESTATE PLANNING.***
- **Gifts to Charity** – Usually everyone wants to leave most of their assets to their loved ones, but most people also want to leave something to charity to benefit others. Without the proper planning, the gift you wanted to make may never make it to the charity of your choice. ***If you are interested in helping others, YOU NEED ESTATE PLANNING.***
- **Protection for Your Loved Ones** – When you pass away and leave an inheritance to your loved ones, is it important to you that the inheritance be protected from the creditors of your loved ones and, more commonly, from the divorcing spouse of your loved one? There are many ways to protect the assets you give others, but only if you properly plan. ***If you want to protect your family, YOU NEED ESTATE PLANNING.***

There are many, many more non-tax related reasons for Estate Planning, and you probably have some I have not mentioned here. If you do have other concerns, proper Estate Planning can usually take care of those issues and let you remove the concern from your mind.

The question people usually ask is “WHEN should I do my Estate Planning? I am too busy (or any of a thousand other excuses) to do it now.” My answer to that question is always, “When is something going to happen to you? Let me know that and I can tell you when the planning must be done.” Of course, none of us have a functioning crystal ball to tell the future. The time to plan is ***NOW***, before something unexpected does happen. Estate Plans are usually very flexible and can be changed as your life changes, BUT after something happens to you, it is too late to plan.

Be sure you meet with your Estate Planning attorney soon to take care of matters you have always been meaning to do - - - **before** something unexpected happens.

William J. (Bill) Cutchin is an attorney at ***Cutchin Law Firm*** at 1051-B Johnnie Dodds Blvd., Mt. Pleasant 29464 concentrating in Estate Planning (Trusts and Wills), Asset Protection, Probate, and Business Law. This article is provided for general information only and is NOT intended to be legal advice. You should contact a licensed, practicing attorney for advice on a specific legal matter. You may reach Bill at ***843/216-0809*** or by visiting his website at **www.cutchinlaw.com**. ***Providing Personal & Caring Estate Planning.***