

PURPOSE-DRIVEN ESTATE PLANNING

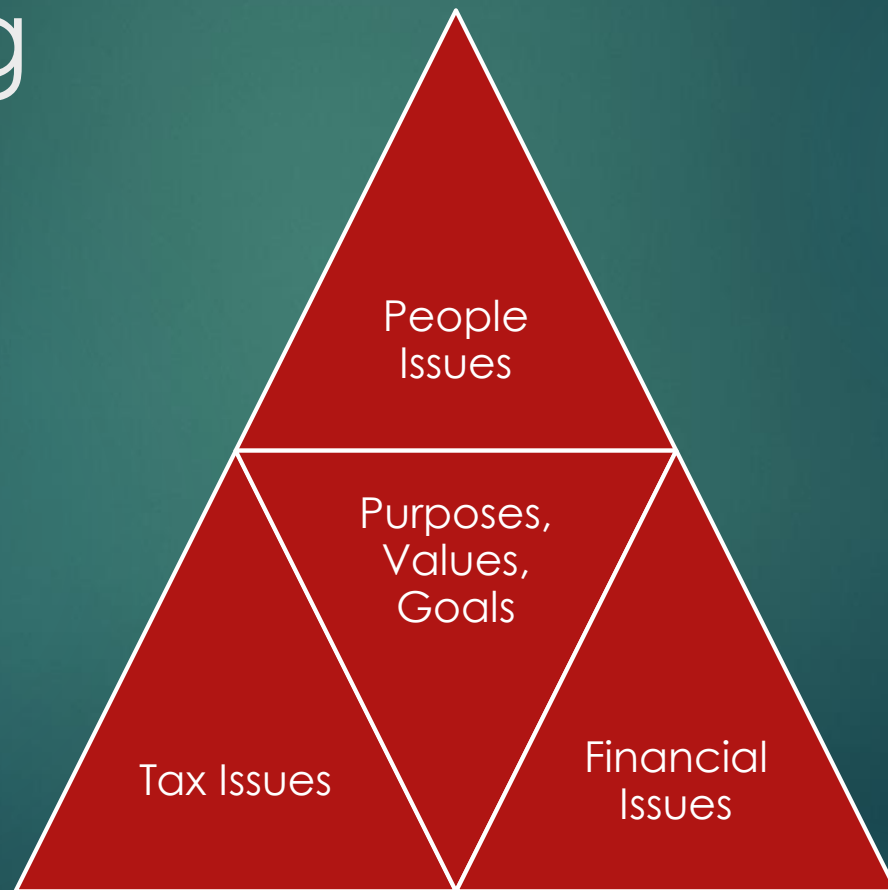
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OVERVIEW

- ▶ Values/Purpose Driven Approach
- ▶ Estate Planning 101: The Basic Tools
- ▶ Income Tax > Estate Tax
 - ▶ Basis
 - ▶ IRAs and 401(k)s
 - ▶ Grantor Trusts

Values, Purposes, and Goals = the Driving Force Behind Good Estate Planning



Examples: the Importance of Purpose and Values

- ▶ Faith, philosophy about wealth and gratitude
- ▶ Choice of leaders and building of leadership
- ▶ Good communication with the next generation
 - ▶ Kindness, courage, and honesty
- ▶ Guardianship decisions
- ▶ Stewardship of resources and talents
- ▶ “Ethical will”
- ▶ Beneficiary decisions
 - ▶ How inheritance is structured
 - ▶ Charitable gifts, educational institutions, faith community

Examples: ethical wills

Having disposed of my property through duly executed documents, I now turn to the harder job of leaving to my children, Lisa and David, a set of principles that they should consider in living their own lives and in helping to shape the lives of their children.

1. Do the right thing -- as often as you can.
2. Only worry about those things that you can do something about.
3. Try as hard as you can, and, having done so, don't look back if things don't work out.
4. Work hard, but stop before you mindlessly begin work to ask whether you have found the most efficient thing to work hard at.

► Source: Baines, Barry K., *The Value of Ethical Wills in Developing Your Practice*.

Examples: ethical wills

Faith in God is important. I don't know why I'm still here. I am not all that religious, but I am a believer. I have learned how to say no. One can't do everything. Never be afraid to say, "I'm sorry, please forgive me." Ask for God's forgiveness.

Recovery is important. Through recovery, I have gotten through a lot. My recovery is following the AA program, especially the serenity prayer. I've learned to listen to other people's stories. (Mine isn't the worst, believe me.) I've had 23 years of sobriety since 10/21/75.

Learn to be humble. I've learned to be as honest as you can be. If you want something, for God's sake, ask for it. You can't read minds. The "wisdom to know the difference" comes from God. Be the best person you can be. This may mean to do the simple things like have a fire pit, and roast hot-dogs and marshmallows.

Be generous with love. Through my mother and a neighbor named Gus, I've learned to have a good sense of humor. Learn to live day by day and have acceptance of another's quirkiness. Have a willingness to be open.

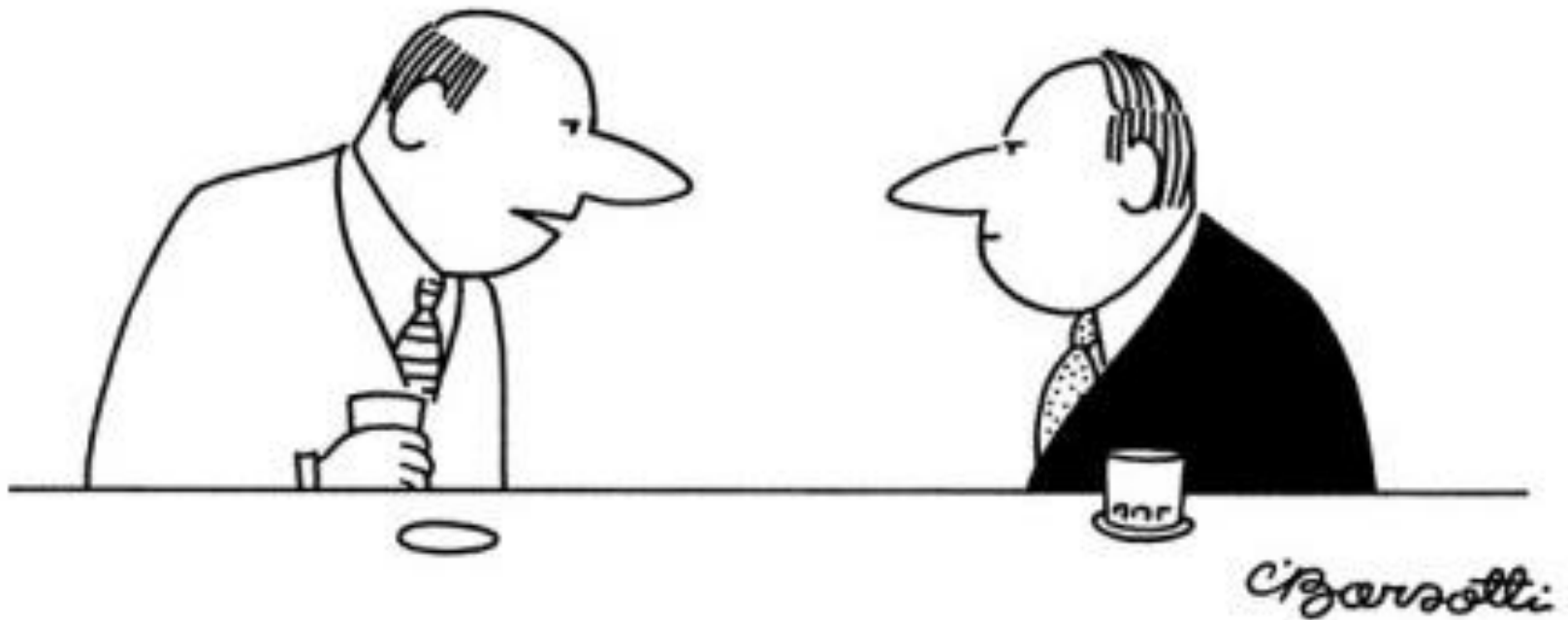
- ▶ Source: Baines, Barry K., *The Value of Ethical Wills in Developing Your Practice*.

Examples: ethical wills

When I was diagnosed with cancer I could have wasted three years saying, "Why did I get cancer? Why me?" As a dancer I had learned to let go so that I could feel even the wisp of a movement as a signal for a whole series of movements. When I discovered I had cancer, I decided to dance with mystery and try not to lead. This allowed me to live large, watch my life around me, and not miss moments.

- ▶ Source: Baines, Barry K., *The Value of Ethical Wills in Developing Your Practice*.

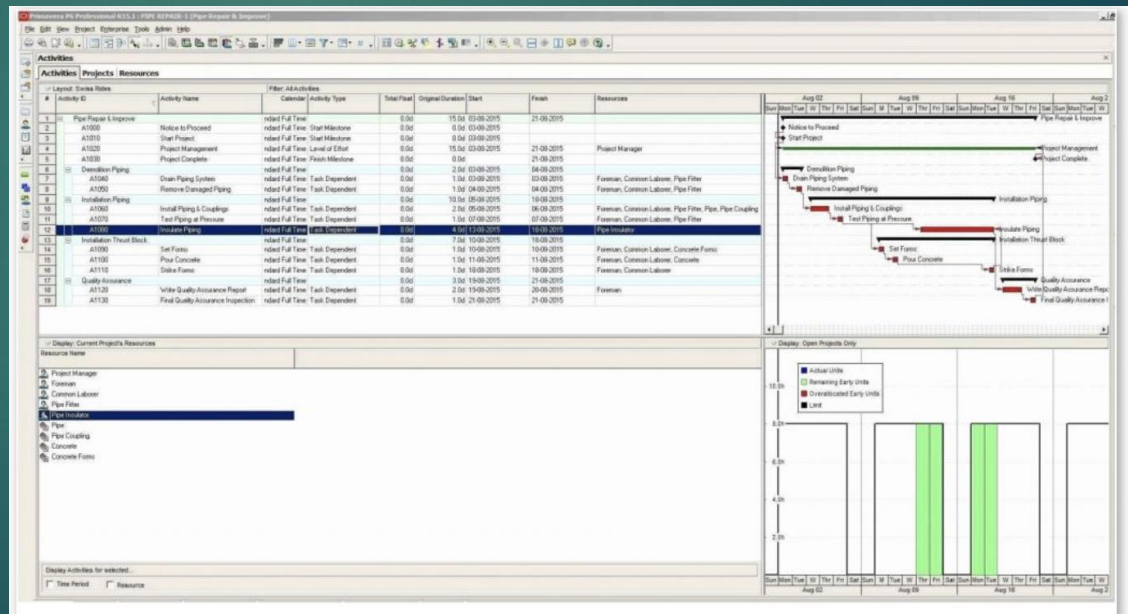
Estate Planning: The Basic Tools



"I consider myself a passionate man, but, of course, a lawyer first."

Estate Planning: the Basic Tools and Ideas

- ▶ Estate Planning is “Emotional Math.”
 - ▶ What could be harder?



3 Ways to Pass Property at Death

- ▶ Non-probate transfers
 - ▶ Beneficiary designations
 - ▶ JTWROS
- ▶ Last Will and Testament
 - ▶ Traditional method for everything else
 - ▶ Probate (court “process”)
 - ▶ The original!
- ▶ Revocable Living Trust
 - ▶ “Will Substitutes” → Avoid Probate
 - ▶ Requires changing title to trust
 - ▶ 3 parties: Grantor, Trustee, Beneficiary
- ▶ (4th method: no plan)
 - ▶ Intestate Succession (State Law)



Other important documents in the basic estate plan

- ▶ Healthcare Durable Power of Attorney and Living Will
- ▶ Financial Durable Power of Attorney
 - ▶ Immediate effectiveness
- ▶ Dementia Provision
 - ▶ Compassion and Choices
- ▶ Copies?

Other concepts and tools

- ▶ Beneficiary Deed
- ▶ Transfer on Death Beneficiary Registration for your business
- ▶ Special Needs Trust
- ▶ Life insurance and Life Insurance Trusts
- ▶ Long term care insurance
- ▶ Buy-Sell Agreements and Shareholders' Agreements
- ▶ Retirement benefits trusts if your beneficiaries are young – or spendthrifts
- ▶ Creditor or spousal protection trusts for children



Income Tax: a few notes

- ▶ Basis
- ▶ Retirement Accounts
- ▶ Grantor Trusts

Income Tax: a few notes

- ▶ Under current law, income tax > estate tax (for estate planners)
- ▶ Examples
 - ▶ Basis in property held by decedent adjusted to FMV at death. Section 1014.
 - ▶ Compare with basis of property received by *inter vivos* gift
 - ▶ Huge concept (deserves its own presentation)
 - ▶ IRAs, 401(k)s, and naming beneficiaries
 - ▶ Special needs kids/spouses
 - ▶ Minors
 - ▶ Customized beneficiary forms
 - ▶ Roth conversions
 - ▶ Grantor Trusts
 - ▶ Income Taxable to Grantor
 - ▶ (Also deserves its own presentation)

Takeaways



- ▶ Estate Planning takes a team.
- ▶ You, your family or other chosen “leaders” or decisionmakers, your legal, tax and financial advisors.
- ▶ Driven by your goals and the specific details of your situation.
- ▶ Advisors as collaborators.

Bonus: planning for family businesses, farms, and ranches

- ▶ Do: Make intentional choices based on honest and realistic shared goals and priorities.
- ▶ Do: Begin to transition leadership to the next generation when those individuals are in their 30s and 40s.
- ▶ Do: Transfer leadership and appropriate levels of autonomy when the older generation is still around to offer guidance.
- ▶ Don't: ignore change and the passage of time.
- ▶ Don't: squelch individual leadership. Create legal structures that balance individual autonomy/appropriate individual leadership with liability protection and clear decision-making processes.
- ▶ Don't: be driven by tax-motivated decision-making alone.

Thank you!

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