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Cramer, Minock & Sweeney, P.L.C.
339 East Liberty Street, Suite 200
Ann Arbor, Michigan 48104
(734) 668-2200 Telephone
(734) 668-0416 Facsimile

ESTATE PLANNING

Like most people, you are probably concerned with and want to insure that your personal and financial affairs will be properly handled in the event of your death or disability. Professional estate planning addresses these concerns and carries substantial benefits for you and your family. An estate plan may consist of a simple Last Will and Testament or may involve the use of trusts, financial, tax and insurance planning, durable powers of attorney, and even changes in property ownership interests.

Three basic purposes for estate planning are:

1. Transferring assets upon your death in the way you intend;
2. Avoiding the delay and expense of probate proceedings; and
3. Reducing tax obligations.

All three of these factors must be addressed in designing a suitable estate plan. You may want to consider the following techniques in your estate plan.

Last Will and Testament

The most basic estate plan is a Last Will and Testament (Will). A Will accomplishes the first purpose of estate planning by permitting you to direct the disposition of assets upon your death and avoid your assets passing according to Michigan's strict statutory scheme.

A Will also permits you to name a personal representative to handle the administration of your affairs after your death. If you have minor children at the time of your death, a Will may be used to name a guardian or conservator to provide for your child's care and support. A testamentary trust may also be established through the Will to hold assets for your minor children, until the time you have designated for distribution to them, usually upon reaching a certain age.

Although a Will may serve as an effective means of distributing your assets, a Will normally does not affect the tax consequences to your estate. Assets distributed under a Will must go through Probate Court and, as you may be aware, Probate Court proceedings will result in additional costs and delays in the administration and distribution of your estate.

Revocable Trusts

The revocable or living trust (Trust) addresses all three purposes of estate planning. Your assets are distributed as you have directed in a prompt, confidential manner. All assets in the Trust are administered and distributed without the necessity of Probate Court proceedings. The Trust may

also be designed to make full use of federal and state tax laws so that you and your spouse may transfer the maximum amount of assets to your heirs free of estate taxes.

The Trust may be set up during your lifetime and permit you to remain in full control of your assets and to serve as your own trustee until the time of your death or incapacity. A successor trustee is commonly named in the Trust, often your spouse, an adult child, or a bank to assume the responsibility of handling your assets according to the terms of the Trust after your death. Assets placed in the Trust do not go through Probate Court. You also retain the right to change or terminate the Trust at any time during your lifetime. A Trust is normally prepared with a Will, which provides that any assets not placed in the Trust prior to your death will be transferred into the Trust at the time of your death.

Federal law for the 2018 calendar year exempts up to \$11.2 million in assets from estate taxes at the time of your death. Under the portability provisions of EGTRRA, a married couple may exempt up to double the individual exemption amount. Each person is entitled to the estate tax exemption and revocable trusts are often created so that the tax credits of a married couple are both used to maximize the distribution of assets to your children upon the death of the last surviving spouse.

Irrevocable Trust

Irrevocable Trusts are trusts used to supplement your other estate planning documents and are created to hold specific assets for the benefit of named beneficiaries. Unlike revocable trusts, you must appoint a trustee other than yourself to control the assets placed in the Irrevocable Trust. Irrevocable Trusts are commonly used to hold life insurance policies in order to prevent your life insurance proceeds from being included in your estate for federal estate tax purposes. Irrevocable Trusts may also be used to protect assets from taxes in estates exceeding the estate tax credit limitation.

Gifts

Another way to reduce your taxable estate is through the use of gifts. Each person is entitled to an annual gift tax exclusion for gifts up to \$15,000.00 (\$30,000.00 if spouses split the gift) to as many recipients as a donor desires. Therefore, a married couple could gift up to \$30,000.00 to each of their children or grandchildren each year to reduce the size of their taxable estate. The annual exclusion amount of \$15,000 is adjusted periodically for inflation. You may also consider gifts greater than the exemption amount to permit future appreciation of an asset to accrue in your heir's estate, rather than your estate.

General Durable Power of Attorney

A General Durable Power of Attorney is a document which permits you to name another person to handle your personal and financial affairs in the event you are unable to do so, particularly as

a result of a disability. The General Durable Power of Attorney is often incorporated into the estate plan to insure that the person you designate may fully handle your affairs without the necessity of seeking authorization from the Probate Court.

Medical Durable Power of Attorney

A Medical Durable Power of Attorney is a document that sets forth instructions concerning medical care after you become incapacitated or terminally ill. Michigan law provides that you may designate another person to make health care decisions for you when you are no longer physically or mentally capable of making those decisions. The Patient Advocate Designation permits you to state your intentions concerning medical treatment in the event you are terminally ill and may no longer desire the use of artificial life support to prolong your life. It also permits you to name the person you would prefer make those serious medical decisions on your behalf.

Medicaid and Health Care Planning

Medicaid, also known as the Medical Assistance Program, is a federal and state funded program that pays for health care services for qualified persons who have limited assets and income. Although recent changes in the Medicaid laws have restricted many of the techniques available for Medicaid qualifications, careful planning may assist you in maintaining financial eligibility requirements for Medicaid to pay for long-term nursing care without exhausting all of your assets.

Probate Proceedings

Probate is the court process by which a person (personal representative) is appointed by the Court to account for and distribute your assets after your death either according to a valid will or, in the case of no will, according to Michigan's intestacy statutes. The personal representative has, among others, the following duties:

1. Choosing the proper probate proceeding (i.e. formal or informal, supervised or unsupervised) and filing the paperwork to get the process started;
2. Identifying assets of the probate estate;
3. Identifying the heirs and/or beneficiaries of the deceased's estate either by will or by applicable law;
4. Identifying all other interested parties;
5. Settling valid debts of the deceased and denying invalid creditor claims;

6. Distributing the remaining assets to the proper heirs and/or beneficiaries; and
7. Supplying the court and interested parties with notice of the court proceedings, an inventory of the assets, an accounting of the estate's income and expenses, and ultimately distribution of the assets.

The duties of the personal representative and the degree of court involvement will vary based on the type of probate court proceeding chosen by the personal representative. Probate proceedings can be initiated as formal or informal, supervised or unsupervised.

The appropriate probate court proceeding will depend on, among other things, the degree of harmony or discord among the decedent's heirs/beneficiaries, the value of the assets in the probate estate, and whether the decedent died with or without a valid will.

The Cost of Estate Planning

The expenses and legal fees for estate planning may vary based upon your individual needs. The first consultation with our firm regarding your estate plan is conducted at no charge. At that time we will review your personal estate planning needs and discuss the costs involved in completing an estate plan.