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Second, or Third, Time's the Charm

Make Sure Your Estate Plan Is, Too

Second or third marriages have become commonplace (between one-half and two-thirds of divorced people remarry, within three years); however, blended families create unique financial and estate planning issues.

Newly married spouses who have former spouses need to consider expenses and ownership. For example, if you and your spouse commingle income and assets, you may take on unintended risk. Divorce settlement agreements do not bind creditors which puts commingled assets at risk. In short, by default one of you could be responsible for an old debt.

Inheritance timing presents another area for concern for newly married spouses. If you own assets jointly with your new spouse and predecease that spouse, you may unintentionally disinherit your children from a prior marriage. Any assets titled jointly will pass to your new spouse giving that spouse final say over who inherits jointly owned assets. Creating a Family Trust or Bypass Trust avoids that result and protects both your surviving spouse and your children. The Trust allows the creator to control distribution of assets. A prenuptial agreement can also be a tool to preserve each party's ability to remain a trustee or beneficiary of a prior Trust.

Finally, spouses need to decide how the home will pass. They need to determine whether the surviving spouse will continue to reside in the marital home, for how long, and whether the surviving spouse has the funds to maintain the home. Many couples utilize a Trust for the benefit of the surviving spouse to address these issues.

The key is to revise your estate plan with your new family in mind. Financial and legal planning involving second marriages involves complicated issues that require consideration during the planning process. Our office can help you plan for and avoid unforeseen outcomes.

The Joy of Foster Parenting

Should Include a Little Legal Planning

Every year, more than 250,000 children are placed in foster care. Many exit that system through reunification with parents or adoption. But for those that remain with their foster family without being adopted, inheritance causes problems. Although the family and child do not share legal or blood bonds, all parties consider the former foster child part of the family.

Except where inheritance is concerned.

In simple terms, the law draws a distinction between having a child and "getting" a child. Most states have enacted statutes that treat adopted children and biological children of adopting parents the same. Unless and until legally adopted, the law considers your former foster child a ward of the state and excludes that child from inheritance in the case of intestacy (without a Will.)

Fortunately, the solution is simple: Make sure you specifically name your foster child or children in your estate plan. If your foster child has special needs, create a Special Needs Trust to provide for their financial and health care. A Special Needs Trust allows you to set aside funds for the child's care without impacting their ability to qualify for and receive government benefits through Medicare or Medicaid.

Whether through adoption or taking in a foster child, this life event sparks the need for an estate plan review. Update your beneficiary designations to ensure that they accurately reflect your wishes. Revise legal documents like Wills and Trusts as well as ancillary documents, such as Estate Planning Letters that specify distribution of assets with emotional, rather than tangible value.

Even though the law may treat foster children differently, with a little forethought you can ensure your estate plan treats them like every other member of your family.

No Longer Behind the Wheel? Not a Problem

As we age, changes in vision, hearing, motor skills, and reaction times can make driving more hazardous—and can even result in an elderly loved one losing their ability to drive.

That may mean some of the transportation burden may fall on you, but fortunately other options can help pick up some of the slack. Most localities provide public transportation resources for the elderly. Contact your local community services office or use the government's Eldercare Locator **(www.eldercare.acl.gov)** to learn about available programs. Transport services like Uber and Lyft can allow you—if your loved one is unable—to set up rides and track the entire trip from pick-up to drop-off.

Online shopping provides support to the elderly. You can set up delivery of common consumable items on a recurring basis. DoorDash, GrubHub, Instacart, etc. can deliver meals and goods from local merchants.

Granted, the inability to drive may cause your loved one to feel less independent. You can help them regain a large measure of control by providing them with the right tools to manage their daily needs.

International Estate Planning

What Happens If You Own Assets in Other Countries?

Imagine you're overseas on the vacation of a lifetime. You're immersed in the culture and fall in love with your vacation destination. On a whim, or with some careful thought, you decide you'd like this destination to be a more regular staycation. Just like that you're the happy homeowner of a property abroad. Now what happens to this property when you're gone?

When you pass away, your European home for example, still counts as part of your U.S. taxable estate and can be subject to estate tax (the "hide your money in a Swiss bank account" thing really doesn't work). To further complicate the situation, the property may also be subject to inheritance laws in the specific country where it is located. (An estate tax treaty between the U.S. and the particular country might remove the double taxation.)

The result could be ancillary probate, a process that occurs when probate proceedings occur in multiple jurisdictions. Each country retains jurisdiction of the real estate and other property located in that country upon an individual's death. Multiple Wills—that are carefully crafted to ensure they do not alter the operation of other Wills—may be necessary. An International Will may be another option. Savvy estate planning professionals recommend engaging foreign counsel to deal with the specific laws and requirements of that country.

What if you are a citizen of another country who lives in the U.S.? While only a certain portion of your assets (money, real estate, tangible personal property, etc.) may be located in this country, the U.S. tax system will tax you on your worldwide assets for estate tax purposes (except to the extent an estate tax treaty provides otherwise). The situation worsens if you are not a lawful permanent resident. A lawful permanent resident enjoys the same estate tax exclusion as a U.S. citizen, but a non-resident alien receives a much smaller exclusion, a mere $60,000. Thus, the estate of any non-resident alien who dies owning real estate or other property in the U.S. can exclude only $60,000 from estate tax, which may be only a fraction of its value. The situation becomes even more complex when a spouse is not a U.S. citizen. U.S. citizens (or legal residents) enjoy an unlimited marital deduction and can pass an unlimited amount of assets between each other without paying any estate or gift tax. If the receiving spouse is not a U.S. citizen, establishing a Qualified Domestic Trust (QDOT) can result in significant tax savings. Passing assets to a Qualified Domestic Trust rather than directly to the non-citizen surviving spouse allows the decedent spouse's estate to utilize the unlimited marital deduction.

Sound complicated? It can be. Whether you are a U.S. citizen with assets in another country or a citizen of another country with assets in the U.S., contact our office to create an estate plan that covers all the international bases

Can You Guess this Legacy?

He was the first Black man to be nominated for a lead actor Academy Award. He was the first Black actor to win an Oscar for his performance in *Lilies of the Field.* In 1980, he became the first Black director to make a film that grossed over $100 million at the box office.

But he was more than just an acclaimed actor and director. "When I set out to become an actor," he said, "I set myself a standard. I knew what it was to be uncomfortable in a movie theater watching unfolding on the screen images of myself—not me, but Black people—that were uncomfortable. I became an actor because I had to prove a point."

That "point" inspired countless people to believe their dreams were possible and to achieve them. As Morgan Freeman once said, "Sidney Poitier was my inspiration, my guiding light, my friend."

What will your legacy be?

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AMBLER | KEENAN | MITCHELL | JOHNSON is dedicated to providing cost effective service to our clients as they accumulate, preserve, and transfer wealth. We believe that an estate plan will be most effective when it is crafted by a team comprised of the client's most trusted advisors.

To check our current schedule of free estate planning seminars, schedule a review of your existing estate plan, or to arrange for an initial consultation, please contact AMBLER | KEENAN | MITCHELL | JOHNSON at (303) 407-1542 or at **www.Ambler-Keenan.com**.

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