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Basic Estate Planning Fact Sheet Series

Introduction

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We the authors of this fact sheet series hope you will settle down in an easy chair, take one fact sheet at a time, read it, fill out the response sheet, then compare it with our answers at the end of the fact sheet. Please feel free to contact us if you have questions, concerns, or differ with our response.

A caution before we get started. This fact sheet series is intended to introduce you to basic concepts needed to develop an estate plan. Therefore, these fact sheets are in no way, shape, or form intended to replace legal counsel. However, we hope you find each of the 12 fact sheets of benefit.

Part A **What is Estate Planning?**

In this fact sheet series, estate planning objectives include arranging for the well-being of your loved ones and yourself while you are living and after your death.

For many, personal relationships are more important than financial considerations. In fact, for many of us in the United States, more money may not increase our happiness or well-being. The same may be true of your heirs when your estate is settled. Therefore, in these fact sheets, emphasis will be given to not only financial matters, but also to personal considerations. A successful estate plan not only provides for retirement while passing the largest possible estate to loved ones, but also does this in a way that the people are friends through the process and after the estate is settled.

An Ounce of Prevention is Worth a Pound of Cure

Why do so many of us not have a plan, and many not even have a will? First, no one likes to think about death, and your loved ones definitely don't want to listen to you talk about your death. For many, our uneasiness with death prevents us from doing basic, but

necessary, estate planning. But, if you don't have a will, the State of Ohio has laws that determine how your property will be distributed. Chances are, your will will be closer to your wishes than the laws of Ohio. Some recent changes to these laws have made it more likely that in certain circumstances these default laws will be closer in accordance with your wishes than before, but they still are not personally tailored to your wishes.

A second reason many of us don't have an estate plan is we don't understand estate planning. This fact sheet series is an attempt to give you that basic understanding, so you are more comfortable working with those professionals who will assist in developing your plan.

Some people are uneasy when they are forced to depend on others, especially when they don't understand what is happening. They don't like to go to the doctor or dentist, partially because they don't understand the procedures. Hopefully your comfort level with estate planning will be higher after you read this fact sheet series.

Others may find it relatively easy to develop an estate plan according to his or her wishes. But, they find the task to be nearly impossible when the wishes of everyone in the family and/or business are considered. Therefore, the concept "equal is not necessarily equitable" is discussed, and communication is stressed throughout the fact sheets.

Also, this fact sheet series will help you with your daily decisions. You are unconsciously forming your estate plan every time you fill out papers to designate title. In fact, every time you acquire property such as land, buildings, equipment, or a car, you form a piece of your estate plan. Whenever you fill out papers to open a bank account, buy stock or bonds,

buy life insurance, or enroll in employment benefits, you are forming part of your estate plan.

An estate plan doesn't have to be complex or change the way you would have otherwise done things. Maybe all you need to do is change the wording on your certificate of deposit. Or maybe all that needs to be done is to change or draw up a will. Most people who have larger estates (those subject to federal estate taxes) choose more elaborate estate plans to avert a significant portion of their estate going to the federal government. People with more moderate estates may choose to try to minimize Ohio estate taxes. Values of individual estates subject to federal estate taxes are as follows:

Year of Death	Exclusion
2004–2005	\$1,500,000
2006–2008	\$2,000,000
2009	\$3,500,000
2010	Unlimited
2011	\$1,000,000

Part A of this fact sheet is really just an introduction. In Part B, you will now begin to focus on estate-planning objectives. Every person is different, so each of you will need to decide your objectives and the relative importance of each objective. These objectives will be the basis for your estate plan. You may wish to begin by filling out the attached response sheet for Part A.

Part B Estate Planning Objectives

Here we discuss what estate plans you should consider and accomplish. Providing for dependents and retirement is discussed first and is of primary importance. Maximizing the size

of estate distributed to heirs is discussed next to last. We consider this to be the least important of the stated objectives. Ironically, most emphasis spent in estate planning is on passing as many assets to heirs as possible.

To provide for your dependents.

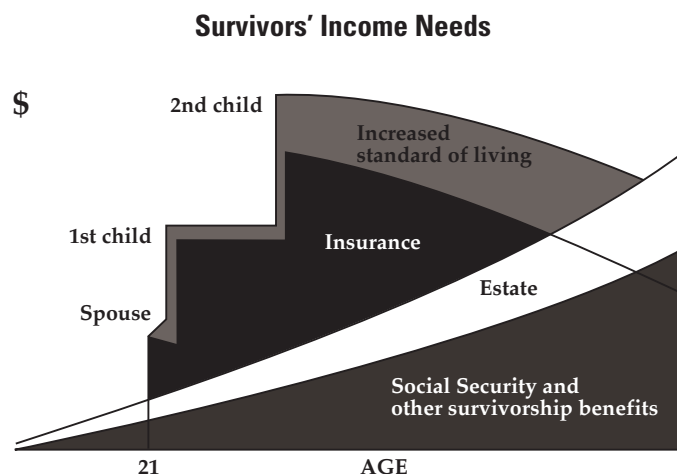
The primary function of life insurance is to insure that dependents are financially provided for in the event of the death of a provider. Other uses for life insurance are to provide liquidity for a buy-sell agreement or to pay estate settlement costs. Life insurance benefits are so important that they are included in most benefit packages, including the Social Security benefit package.

Ironically, more life insurance is needed for dependent care when the young family is least able to afford it. When children are grown and the estate has grown, the need for life insurance (for dependent care) is usually less. The figure “Survivors’ Income Needs,” shows that the need for life insurance for dependent care declines after the birth of the last child.

There are many different types of life insurance. It is important to know what your objective is for the life insurance, so that you will obtain the best matched product for your needs.

Life insurance is less expensive when purchased as term insurance (the kind which you purchase each year usually for a fixed term of years). At the end of the term, the cost of the insurance usually goes up dramatically. Proportionately, very few term policies actually pay out any benefits, but if you know you only want insurance for the next twenty years while your children are still in school, this is probably the best and cheapest product.

Family businesses may wish to use life insurance for other purposes, such as to fund a buy-



sell agreement or for extra liquidity needed to continue the business through and after estate settlement. In these cases, the use of whole life or universal life insurance may be a better fit. They are typically more expensive because they are designed to provide death benefits for your lifetime.

However, single people and those without dependents or a business may only wish to have enough life insurance to cover immediate cash needs upon one’s death, such as funeral, burial, and estate settlement expenses. Indeed, if the following are all true, life insurance may not be needed:

1. The Ohio estate taxes, estate settlement, funeral, and burial costs can be taken out of current assets without liquidating assets that the family wishes to keep.
2. Dependents are self-supporting or can be provided for adequately by the estate.
3. There are no other demands for liquidity at estate settlement time, such as the need for heirs to buy out the decedent’s portion of a business.
4. The estate is less than the exclusion amount listed in the table in Part A of this fact sheet so that Federal tax planning is not needed.

To provide adequately for you and your spouse during retirement years.

Estate planning and retirement planning should not be considered separately. There are two extremes in retirement and estate planning. One is to live for the moment and not save anything for an estate or retirement. This seems to be increasingly prevalent in today's society. The other extreme is the miser that never spends any more than necessary, especially during retirement. They live poor but die rich. Somewhere in the middle is where most want to be.

Economists theorize that those who derive the most utility from money do not spend and save at the same rate all their lives, so that they use up wealth accumulated during the “working” years during retirement. In fact, some think the ideal estate plan is to have nothing when one dies. This may be true for those with no children, those who are more daring, or those without a family business to continue. However, most of us want to have a considerable amount of wealth available, even during the last few days of our life. Retirement planning considers how much we will spend during retirement and how long retirement will last. Estate planning considers disposal of assets at death. Both retirement and estate planning need to be done with the other in mind. For most of us, all resources are not fair game to be used up during our retirement. So, better planning and family relations could be obtained in most families by dialogue about what assets and how many of the assets will be used up during retirement. Small business people, especially farmers, may want business assets to stay intact, especially if there is a home farm. However, others may wish to sell or reverse mortgage the home property. The liquidity created from the sale or reverse mortgage of property could be used for the children's college education or for the parent's

retirement. At the same time, a smaller home may be appropriate.

To treat all children equitably, not necessarily equally.

Equal distribution to children is the easiest and most common. Equal distribution is appropriate if the children have been treated more or less equally before the estate is distributed and they have equal future needs. Equal distribution may be appropriate even if each child has different financial needs at the time the estate is settled. But, in some instances, equal distribution is simply not appropriate.

Consider one child, Charles, who went to college and one, Billy, who stayed home. Mom and Dad paid for Charles' college education and Charles now lives and works away from the farm. Billy has an off-farm job and also farms the home place. Billy has stayed with Mom and Dad all his life and took over the farming operation as Dad's health declined and Dad passed away. The estate includes the original farm, plus several new buildings, partially purchased by Billy from savings from his off-farm job. However, Billy also had some benefits that Charles didn't have, such as room, board, and laundry. Should Mom divide the estate equally? Only Mom knows.

One of Mom's first considerations should be to make “right” those things unfair. To do this, she first needs to decide if, and where, things were not fair. Mom may not have considered Billy's room, board, and laundry as a “bother.” Or, Billy may have repaired his parent's cars, been the house handyman, cared for them in their old age, and in general, done things for Mom and Dad to pay for his room and board. Thus, Mom may choose to “penalize” Billy for room and board or “reward” him for caring for her and Dad in their old age, or consider it all even.

Mom also needs to consider if Billy took from the farm operation or if the farm took from Billy. Put another way, if Billy hadn't stayed on the farm, would the estate have been larger or smaller? If Billy was paid a farm wage, he may "have coming" only the value of the assets that he purchased with off-farm income. However, if Billy wasn't compensated while contributing to the farming operation, his inheritance might be increased by the greater of 1) the accumulation of appropriate wages, plus interest, or 2) the increase in net worth in the farm operation that was a result of his efforts. Concerning Charles, his inheritance might be decreased by the cost of the college education, plus interest. Also if Mom and Dad helped in the purchase of Charles' home, his inheritance might be decreased by that amount, plus interest.

Another factor considered by many in the "equitableness issue" is need. It is a given that minors need to be cared for as do dependents with handicaps that restrict their ability to make a living. Special arrangements need to be made in estate planning for minors and handicapped dependents. However, adjusting inheritance according to the "needs" of different children or other heirs who are adults of able mind and body is "right" for some and not right for others. To do so surely complicates the decision process, but that doesn't make it wrong. Each grantor must determine for themselves if the "need" of heirs should influence distribution of assets in their estate.

To maintain the business as an efficient and functioning unit.

Farm families and other family businesses often wish to pass an ongoing farm or business on to children. Parents need to recognize that those children who make the family business their career may need to receive a larger portion of the inheritance in order to keep the business viable as a functioning unit. In some

cases, the business is the entire estate and needs to be willed in whole to the children who stay with the business.

For a farming operation or other business to continue, not only do assets have to be transferred, but management skills also have to be transferred. Also, the children or others taking over the business need to have the opportunity to actually manage. This allows the owners to evaluate the interest and management ability of the successors. Sometimes children simply don't want to be in the business or don't have the ability to run the business, in which case the parents may actually be doing the children a favor by allowing those unwilling or not capable to weed themselves out.

Assuming the children or others want to and will "make it" in the business, the best way for parents to help is to simulate as much as possible "the world without Mom and Dad." One option is for the successors to buy the operation from the parents. This transfer option may be more expensive than inheritance, but the added cost may be less than the benefits. Remember, parents are entitled to a "retirement" even if their children want to farm, and by the same token, their children are entitled to be able to run the farm as they see fit if the parents are retired. Many parents are too kind to their children and/or unwilling to let go of the reins when they do retire. As a result, the children never learn to be "adults" until it is too late for them to change their ways.

Most businesses find it necessary to expand as children enter the business. As people live longer, more return is needed from businesses to support additional households. It is common for businesses to support at least three households: the grandparents, sons and/or daughters, and grandchildren's household. As changes and expansion take place, the adult

children should fund the expansion as much as possible and, therefore, own an increasing portion of the business. Granted, this is often not possible, especially in farm situations, but it should be done as much as possible, from an estate planning and management point of view. The children need to buy equipment and chattels as they are replaced. Thus, an alternative business agreement between family members, such as a limited liability company may be appropriate. If the adult children don't have enough income to do this, and they are contributing more and more to the business, more of the business income needs to be allocated to them. If adult children aren't contributing more and more to the business, turning the operation over to them, even at the retirement or death of the parents needs to be critically evaluated. For more information, refer to the OSU Extension resource, *Transferring Your Farm Business to the Next Generation*, Bulletin 862.

To provide liquidity to settle the estate.

Estate settlement can be expensive, especially with large estates. Subsequent fact sheets will discuss the amount of estate settlement costs. Even with excellent planning there are estate settlement costs and may be debts. The executor may need to liquidate assets in the estate to pay these expenses. Examples of liquid assets easily used to pay estate settlement costs are savings accounts and life insurance policy proceeds.

If there are assets in your estate that you intend to pass directly to heirs, such as the family home, family farm, or family business, other liquid assets need to be available to pay estate settlement costs and debts. For a family business to continue into the next generation, liquidity needs to be available when the estate is settled.

To maximize the amount remaining for distribution after estate settlement costs.

Most people wish to plan their estate in order to minimize estate taxes. In fact, many estate planning seminars, books, and discussions center around how to avoid federal estate taxes. Even this fact sheet series will place emphasis on estimating and saving estate settlement costs. However, remember that the overriding financial consideration should be to maximize the amount left over, rather than to minimize taxes and/or attorney fees. But having a few more dollars go to heirs may not be worthwhile if it creates additional conflict.

To maximize total family satisfaction.

We all wish to pay the government as little as possible, but the overall well-being of the entire family, before and after estate settlement, is the primary concern for most people. Several attorneys have told me that in half the estates they deal with, it is the wish of all the children to carry out the parent's wishes. But even if the children and their spouses will agree with and support the parent's estate plan, and sincerely care for each other, the parent's job is not done. Parent(s) have a responsibility to communicate to *all* children, in a similar manner, their plans for their estate. This is true whether or not each child will continue in the family business and no matter how large each child's inheritance. Parents have the responsibility to make sure all children know and interpret their wishes in a similar manner. Many families are split during the estate settlement process because different children interpret parents' wishes in a different way. Even if wishes seem unfair to certain children, the children will more likely accept that distribution, if the parents have made their wishes crystal clear to *everyone* involved. Any doubt about the intent of parents may cause conflict even in the closest of families.

However, if family relations aren't good, communication to all children may not be appropriate. Some children can make their parents' lives miserable if they know ahead of time that they will not be treated as they think they should be in the will. In that instance, maybe the wishes should not be communicated to any of the children. At least from the point of view of being informed, no one child has been treated more favorably.

Even if family relations are not the best, estate planning should be conducted in a loving, considerate, and respectful manner. Parents wish to be remembered fondly and in general want more than anything else the well-being of their children after they are gone. The gift of love and respect, and the parent's blessing is more important to most children than the amount of their inheritance.

In order to plan your estate you need to look through the objectives discussed above, add any left out, prioritize the objectives, and use them as the basis for estate planning. The plan is the easy part. Prioritizing the above objectives is the hard part. Most parents would like to give everything to each child, but that just isn't possible. Communication about why things were divided as they were is just as important as how they were divided. Also, remember that communication is the most important to those most likely to feel slighted.

Retirement Planning Considerations

Why is retirement planning included in an estate planning fact sheet? As mentioned before, estate and retirement planning should be done together, not separately. Each impacts the other. The more spent during retirement, the smaller the estate(s). Too much spent, or many years of retirement, may result in few or no assets left for the later years of retirement.

Even though no one knows when our last day will be, actuarial tables give us an educated guess. For example, if a man retires at 62, he can expect to live 18 years. Assuming his wife is also 62, she can expect to live 21.3 more years.

The joint life expectancy of both spouses is at least 24 years. In other words, chances are either the husband or wife will live about 24 years after the husband's retirement. So, there is a 50-50 chance that one of the spouses will live longer than 24 years. Chances are, the wife will outlive the husband, but that is not always the case. As a rule of thumb, the joint life expectancy of a couple is usually about three years more than the spouse with the longest life expectancy.

Investing Liquid Assets During Retirement

Our finance instructors in college drummed into our heads that higher rates of return (interest or dividends) accompany higher risk, and conversely lower rates of return accompany lower risk, everything else equal. Therefore, if there is risk of losing some or all of your principal investment, you can expect higher rental fees for your money (interest or dividends) than if there is no risk of losing any of your principal investment.

The finance instructors suggested that very high risk (high return) or very low risk (low return) is seldom a good strategy for the majority of one's assets. They suggested a small percentage of assets to be in very high risk investments (commodities, junk stock or bonds, speculation, etc.) or in very low risk investments (savings accounts or certificates of deposit), but that the majority of investment should be somewhere in the middle. However, many people maintain the majority of their liquid assets in savings accounts or in certificates of deposit, which are extremely low risk investments.

Why is this? Most of us feel more comfortable with what we consider to be no risk investments, so that is where our money goes. However, even with low rates of inflation, returns from low risk investments may be less than inflation. Thus, part of our principal is eroded by inflation, even though we considered these investments to be “safe.” With the higher risk (and return) investments, there is less of a chance we will lose money by inflation. Probably we will be ahead in the long term, regardless of the rate of inflation, with investments like stocks and/or bonds, especially if we spread our risk by using a portfolio or mutual funds.

Mutual funds are very popular because their fund manager invests each investor’s dollar in a diversified portfolio. Some may wish to do their own investing and create a diversified portfolio on their own. Another way to diversify is to invest in both stocks and bonds, and to vary maturity dates of the bonds.

However, financial advisors do not suggest stocks and bonds as good investments unless one will not need the money for a long enough time for the market to go back up, if it goes down. They suggest that it may take as long as ten years for stocks and bonds to cycle, so if investors need their money sooner than that, it may be best to put the money in CDs or other investments where the principal

amount invested will never be at risk. For that reason, those who do invest in stocks or bonds should expect for there to be sometime during the investment period that they would take a loss if their stocks or bonds were liquidated. They need adequate financial resources to be able to wait until the market goes back up. The reward for being willing to take this risk will be a higher long term return than inflation, or an increase in value of assets, even during times of inflation. After all, even though we may need some of our money in the next ten years, few of us plan to spend all of our money in the next ten years. Maybe that portion we will not spend in the next ten years should be in stock and bonds, even if we are retired.

For most retirees, there is a portion of their liquid assets that won’t be needed for quite some time. Since the funds are long term, there will be ample opportunity to cash in the variable funds at a high price and convert them to CDs or savings accounts.

In theory, a portion of liquid assets should be in stocks and bonds. However, if you are just not comfortable with any of your money being worth less than before, at any time, or are not comfortable that the money could be worth less sometime in the future, the grief caused by stocks and bonds is just not worth the extra dollars returned.

These fact sheets should in no manner be considered as a replacement for consulting with estate planning professionals, nor should the general principles in these fact sheets be applied to specific situations without consulting with an attorney.

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Your Response

Fact Sheet 1: Part A

We suggest you first read the fact sheet, and then fill out this response sheet. Make one copy of this response sheet for you to fill out and make another copy for your spouse. If you don't have a spouse, the other response sheet is for your executor. You may even wish to share your response sheets, especially this initial one, with all heirs. Later fact sheets will discuss communication with heirs.

1. A successful estate plan generally passes the largest possible estate to heirs. However, it is also important that this is done with the least hassle as possible, and in a way that heirs and family are friends through and after the process. If any of the three below responses “jump out” as more important to you, circle them. (There is no right answer.)
 - a. Pass on the largest possible estate
 - b. Minimize hassle
 - c. Good family relations
2. Do you need to spend more time on your estate plan? yes no
3. If you answered yes to question 2 above, indicate why progress is not being made on the plan.

4. More complex estate plans are generally needed for estates over \$ _____ in 2009.

Fact Sheet 1: Part B

Please note that there are three columns below for responses. In the event that your spouse is with you, each spouse should respond individually, then the couple should sit down and compare answers, and complete the remaining column to be used with the professional estate planning team. The combined objectives column on the right is calculated by adding the numbers for that line for both husband and wife.

Prioritizing objectives for estate planning is the most difficult part of the plan. The following will be valuable information for your estate planning team.

Put numbers from 1 to 8 in the following objectives, with 1 indicating the most important. Ranking of each spouse may be different and your ranking may change with time.

1. Husband	Wife		Combined Objectives
_____	_____	a. provide for dependents	_____
_____	_____	b. provide for retirement	_____
_____	_____	c. treat children equitably	_____
_____	_____	d. heirs take over a viable family business	_____
_____	_____	e. maximum value of estate going to heirs	_____
_____	_____	f. family conflicts minimized	_____
_____	_____	g. minimize estate planning and execution hassles	_____
_____	_____	h. other (write out) _____	_____

2. Considering only your objectives, are there any that conflict with each other for your money or time? List those that do.

a. _____ b. _____

3. If filled out by husband and wife, objectives may be different or have different priority. If there are differences, what are they?

4. Which assets, if any, do you **not** want to be liquidated (sold) during your retirement or when your estate is settled?

5. Which assets, if any, may be liquidated (sold) during retirement or when your estate is settled?

6. Who do you want to own the assets that should *not* be liquidated? _____

7. Do you feel any of your children have been treated more favorably than others?

Yes No

a. If so, who, how, and when? _____

b. If so, place a dollar value on the favorable treatment if you feel you can.

c. Do you feel this favorable treatment is significant enough to be considered in your estate plan?

8. Have any of your children been treated less fairly, in comparison with the rest of your children? Yes No

a. If so, who, how, and when? _____

b. If so, place a dollar value on the less favorable treatment if you feel you can.

c. Do you feel this less favorable treatment is significant enough to be considered in your estate plan?

9. Do you want to pass on to heirs a viable business? Yes No

a. If so, to whom? _____

b. Do those above want to continue in the business? Yes No

c. If so, are those above capable to continue the business? Yes No

d. If so, what are you doing to transfer management skills to the above?

e. If so, what are you doing to transfer assets to the above?

10. How will you communicate the above information to your heirs?

Answers

Fact Sheet 1: Part A

1. A successful estate plan generally passes the largest possible estate to heirs. However, it is also important that this is done with the least hassle as possible, and in a way that heirs and family are friends through and after the process. If any of the three below responses “jump out” as more important to you, circle them. (There is no right answer.)
 - a. Pass on the largest possible estate
 - b. Minimize hassle
 - c. Good family relations

There is no right answer and for some it will be impossible to choose only one. However, the objectives often are in direct conflict. Prioritizing these will help you make your decision.
2. Do you need to spend more time on your estate plan? yes no
3. If you answered yes to question 2 above, indicate why progress is not being made on the plan.

Again, different answers here are correct. There are valid reasons for not spending any more time, such as the plan is done and up to date or your will is sufficient and a more complicated plan wouldn't reduce settlement costs enough for the bother. However, if you answered yes to question 2, let's get started!

4. More complex estate plans are generally needed for estates over \$ _____ in 2009.

Approximately \$3,500,000 is the estate size where federal estate tax is charged in 2009 and increases until 2011 when it drops back to \$1,000,000. If your estate is near these levels, estate planning needs to be done! If your estate is primarily composed of appreciable assets or a business, an estate now worth \$1,000,000 could easily be worth more than a million dollars in 2011. If you want to minimize Ohio estate taxes, you may want to consider planning options if your estate is above \$338,334.

Answers

Fact Sheet 1: Part B

1. Husband	Wife		Combined Objectives
_____	_____	a. provide for dependents	_____
_____	_____	b. provide for retirement	_____
_____	_____	c. treat children equitably	_____
_____	_____	d. heirs take over a viable family business	_____
_____	_____	e. maximum value of estate going to heirs	_____
_____	_____	f. family conflicts minimized	_____
_____	_____	g. minimize estate planning and execution hassles	_____
_____	_____	h. other (write out) _____	_____

There is no right answer and each spouse's response will likely be different. The discussion between spouses is imperative! If there are not two spouses this will be simpler. In any case this information is imperative for a professional to create the plan best for you! If there are two spouses, don't forget to add the husband's and wife's number on the left to make up a combined ranking on the right.

2. Considering only your objectives, are there any that conflict with each other for your money or time? List those that do.

Your answer is unique. This thought process is important as all the objectives compete for your time and money.

3. If filled out by husband and wife, objectives may be different or have different priority. If there are differences, what are they?

The objectives of two or more people may be quite similar or quite different. However, determining which objectives are similar, which differ, and discussing those that differ, is the first and basic step necessary for an effective estate plan.

4. Which assets, if any, do you **not** want to be liquidated (sold) during your retirement or when your estate is settled?

This is an individual answer and will vary, even between spouses. If the majority of the estate is not to be liquidated, the more liquidity is needed to pay settlement costs.

5. Which assets, if any, may be liquidated (sold) during retirement or when your estate is settled?

This question asks for the assets that may be sold to pay estate settlement costs. Estate plans are simpler if assets can be sold.

6. Who do you want to own the assets that should *not* be liquidated?

A major decision in estate planning is deciding which heir will get the valued asset(s). Often these are desired by more than one heir, and only the original owner can decide their disposition.

7. Do you feel any of your children have been treated more favorably than others?

Yes No

a. If so, who, how, and when?

b. If so, place a dollar value on the favorable treatment if you feel you can.

c. Do you feel this favorable treatment is significant enough to be considered in your estate plan?

This is part of the thought process necessary to decide disposition of assets. If you have no children, your obligation to heirs is not as direct, and you may have more latitude.

8. Have any of your children been treated less fairly, in comparison with the rest of your children? Yes No

a. If so, who, how, and when?

b. If so, place a dollar value on the less favorable treatment if you feel you can.

c. Do you feel this less favorable treatment is significant enough to be considered in your estate plan?

This is the negative side of question 7. Accounting for inequitable treatment is necessary to allocate assets equitably.

9. Do you want to pass on to heirs a viable business? Yes No

a. If so, to whom?

Passing on a viable business is much more difficult than passing on assets. Management ability of those to take over, cash flow during transition, transfer of assets to those to continue, and equitable treatment of others are just some of the difficult issues.

b. Do those above want to continue in the business? Yes No

If heirs don't wish to continue, don't force it on them!

c. If so, are those above capable to continue the business? Yes No

If heirs aren't capable, you will do them a favor by counseling them away from the business.

d. If so, what are you doing to transfer management skills to the above?

If heirs are to continue in the business, one of the best things you can do is transfer management skills, not just assets.

e. If so, what are you doing to transfer assets to the above?

Transferring real estate contained in a business has unique challenges. Taxation may be more if transferred before the real estate passes through the estate. Yet, the younger generation needs to feel as if they are investing in their future, not building their parent's estate. Therefore use professionals in developing a plan to transfer assets and consider asset transfer before and after death.

10. How will you communicate the above information to your heirs?

Even if you have bequests your heirs don't want to hear, it's still your responsibility to tell them.

We have experienced three scenarios. First, all heirs (and possibly spouses), are told at approximately the same time and in the same manner. No one is left out, even if not in the business. This is done at a special designated meeting with all heirs present, even if they are not to continue in the business. This is not a social function, so it should not be conducted at a family get together, and grandchildren should likely not be invited. This is the best scenario in our opinion.

Another scenario is that some heirs are informed and others are not. This scenario, in our opinion, is the most problematic, as those heirs "left out" may feel slighted.

The last scenario is one where heirs are informed at the reading of the will. This may be necessary in certain situations, but should also be avoided if possible.