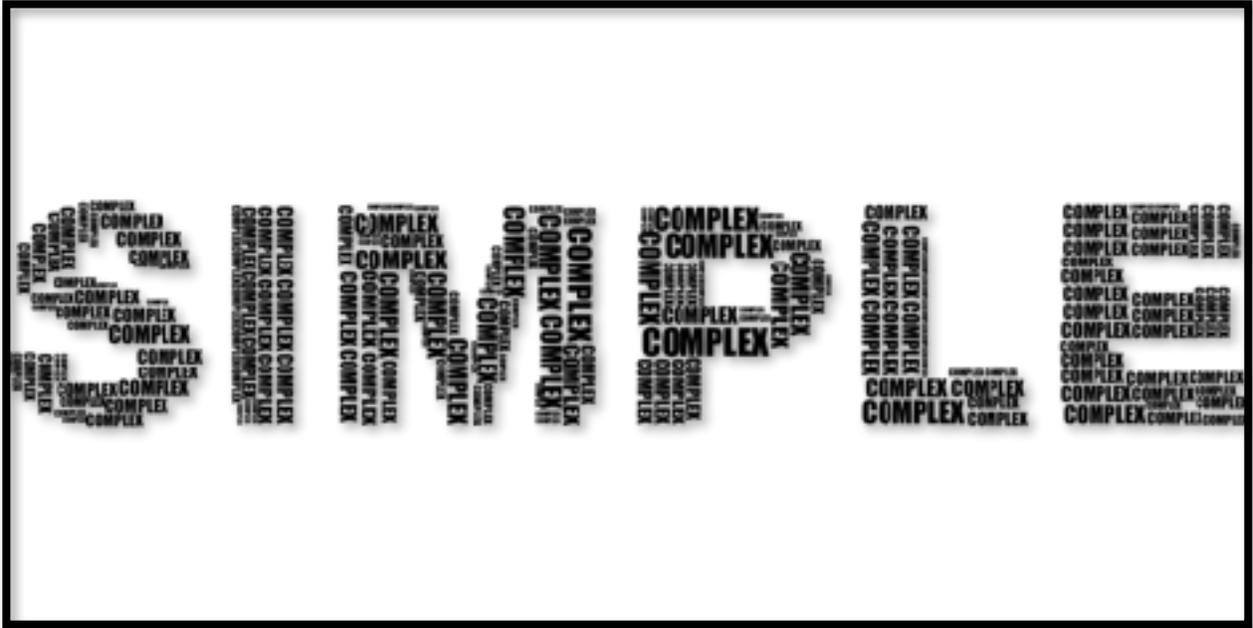


Which Kid Inherits More?



I feel confident that you would rather get a colonoscopy than review your existing (if any) estate planning documents – your wills, trusts, powers of attorney, etc. The fact that we won't be here forever isn't an issue we like to ponder extensively, even before we add all the crazy psychological aspects and delve into the mess of figuring out who would get what, if you weren't here.

Some people think it's easy. And the rare few like legal complexity.

For most people though, sorting out the complicated issues of how best to leave what to whom is a challenge they'd prefer to avoid. They tend to minimize the difficulty by making the simplest plan possible, which seems reasonable on its face. However, sometimes simplicity has unintended consequences. I commonly hear this: Just leave everything to my spouse first, and then if we go down in the metaphorical plane together, simply split it between my kids.

Here are a few thoughts that you may want to consider before you make things “super simple” and “cheap” on the front end when planning how to distribute assets upon your death.

- What if your son couldn't manage a large life insurance sum and would go buy crazy cars?
- What if your kids are minors? Who handles the inheritance then, and how is that money to be spent?
- What if your spouse got remarried and then died? Should the monies you left go to the new spouse or back to your kids?
- What happens if your wife remarries after you die and then gets divorced? Does the new ex get the money?
- What if you have a special needs child or beneficiary? This inheritance may preclude them from receiving government benefits.

- What if you have someone that could potentially dispute your will in probate court? Would you have been better off avoiding probate? After all, only having a will (and no living trust) is typically a “ticket to probate court.”

What’s fair is not equal and what’s equal is not fair.

While you might want your kids to receive the same amount of money upon your death, ***should they receive it in the same way?*** That’s not always the best method of providing equal benefit to each child, for a variety of reasons. Maybe your daughter is capable of receiving an outright distribution from a life insurance policy, but your son should receive it as an annual income.

What happens if you have a business? Privately held business is where many families have true “wealth.” Do you leave the 10-million-dollar business to your son, who has worked in it for years? If so, how do you treat your other kids upon your death? After all, you may have very few assets outside your business and residence.

Doing nothing is a choice...

...albeit a bad and illogical one, but a choice nonetheless. These unintended or intentionally avoided choices can be much more costly at the back end. Attorneys typically do not bill on a flat fee basis; they’ll be charging hourly for probating and litigating disputed estates.

Five years ago, I was schooled by a client who, after paying in excess of \$50K in fees (financial planning, business valuation, real estate appraisal, and attorney fees for estate planning documents), chose to do nothing. I was and clearly still am perplexed by this, since I’m writing about it. It was a conscious and rational decision, though. He told me later that given the complexity of his family dynamic (second spouse with kids from prior marriages), it was simpler for him to not do anything and have his family pay millions of dollars later to clean up the mess. After all, he wouldn’t be here and he wanted to stay married while he was.

My 18 years of experience has taught me that it’s rare for attorneys to discuss the family dynamics in depth with their clients in order to create the best plan. Typically, they ask the client to pre-fill a form with the names of beneficiaries and plug basic information into documents. That works well if you’re content leaving equal chunks of money to loved ones with identical needs and lives. The problem is that families don’t work that way!

Stop trying to make something complex into something simple. Thinking through how to treat each person is an emotionally tough process, but this effort is a significant key to your legacy. Take the time to thoughtfully flow-chart who your assets pass to and how it is most appropriate to accomplish the transfer, if your financial advisor or attorney hasn’t already done so.

Incorporating a values component into your estate planning process is essential. The time and intentionality you put forth in designing this plan will be reflected in your legacy and influence the way you are remembered after you are gone.

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