Goals and Strategies of Estate Planning

Presented by Theseus D. Schulze of Woehrle Dahlberg and Yao PLLC

Presenter Disclosure

External speaker(s) have been invited to present at today's FREE Financial Seminar by Bank-Fund Staff Federal Credit Union (BFSFCU). BFSFCU receives no compensation. BFSFCU does not endorse, recommend, or favor any views expressed, or products or services offered by these presenters. Any views or opinions expressed, materials or information provided are solely those of the speaker and provided for informational purposes only.

Overview of Standard Estate Documents

Last Will and Testament: Chooses who will receive your property after you pass.

Living Trust: A streamlined version of a will.

Durable Financial Power of Attorney: Appoints agents to manage your financial affairs in the event you are incapacitated.

Advance Medical Directives: Appoints agents to manage your medical decisions in the event you are incapacitated.

Estate Planning Goal 1

Establishing the 5 Ws:
What, Who, When, Where and Why?

WHAT do you have?
WHO gets it?
WHEN do they get it?
WHERE is it?
WHY do they get it?

Examples of 5 Ws

1. Upon my death, all of the personal property located at my home, 123 Capital Drive, Fairfax, VA 22030, shall go to my husband Peter Quill.

2. If Drax has predeceased me then all of the above-mentioned property shall go to my children, Groot and Rocket, once they reach the age of 25 and have graduated from college.

3. Upon Mantis getting married and reaching the age of 25 she shall receive my wedding ring, which is located in my primary residence

Estate Planning Goal 2

Appointing Executors, Trustees and Guardians

- **EXECUTORS:** They are the ones responsible for initiating the probate process in court and making immediate distributions.
  -They go through the red tape and security precautions of court.

- **TRUSTEES:** They are the ones making sure the "what" goes to the "whom" at the appropriate "when" and "why."
  -The trustee can handle funds for minor children, or for individuals that have not met the current qualifications to receive their estate.

- **GUARDIANS:** Also known as god-parents. They are the ones who are appointed to take care of your minor children in the event that there are no living parents
  -No need to petition the court for a guardianship.

Estate Planning Goal 3

Naming Agents

Durable Financial Power of Attorney: Appoints an agent (or agents) to manage your financial affairs in the event you are incapacitated.

- *"The authority shall be granted only when I am unable to manage my own legal and financial affairs. This shall be determined by a court of competent jurisdiction or by two physicians (or one physician and one licensed clinical psychologist) after a personal examination of me."* (sample language)

Advance Medical Directives: Appoints agents to manage your medical decisions in the event you are incapable of making an informed decision.

- *"The determination that I am incapable of making an informed decision shall be made by two licensed physicians qualified to make a determination of mental incapacity."* (sample language).

Estate Planning Strategies

Avoiding and/or Limiting Probate

EXPENSIVE

- Court costs, publication costs, insurance costs, executor commissions, attorneys' fees, etc.

TIME CONSUMING

- It often takes more than a year to distribute the assets in an estate.

INFLEXIBILITY

- Requires local executors (foreign nationals do not qualify), publication, accountings, inventories, court supervision, Commissioner of Accounts

Estate Planning Strategies

Avoiding and/or Limiting Probate

OWN PROPERTY JOINTLY

- Real estate that is owned "as joint tenancy with right of survivorship" does not go through probate.

DIRECT SPECIFIC BENEFICIARIES

- Identify individuals as beneficiaries of your 401K or life insurance.

SET UP A TRUST

- Move as much of your estate as you can into a trust and it will bypass probate entirely.

Benefits of Trusts

1. Skips probate!!!!!
2. Avoid guardianship process if you are unable to manage your affairs.
3. Private (wills are open for the public to see)
4. No red tape
5. Can be extremely specific regarding the "why's" and "when's" of distribution.
6. Keeps costs LOW.

Parties of a Revocable or “Living” Trust

Parties

- **Grantor:** The one who gives their assets to the trust.
- **Trustee:** The one who distributes the assets.
- **Beneficiaries**: The ones who get the assets.

General Layout of Living Trust

- ***Parties:*** Yondu (husband), Nebula (wife), Groot (son) and Rocket (son).
- ***Creation of Trust:*** Yondu-Nebula Family Living Trust.
- ***Grantors:*** Yondu and Nebula.
- ***Trustees:*** Yondu and Nebula, until they both die or are both incapacitated then Groot, unless Groot dies or is incapacitated then Rocket.
- ***Beneficiaries:*** Yondu and Nebula, until they both die then Groot and Rocket.

Frequently Asked Questions Regarding Trusts

1. **Do I lose all control of my assets when I create a trust?**
   Generally, the answer is no. Unless you are specifically setting money out of your control to minimize your estate (very rare).

2. **Do I still pay taxes on funds in the trust?**
   Yes, because you have full control of the trust the income is counted as your income (to the extent that you currently pay taxes).

3. **Who manages my trust?**
   Whoever you want! Most people have set themselves and their spouse as the initial trustees then the oldest or most responsible child as the backup.

4. **I don't have a large estate, is a trust "worth it?"**
   The vast majority of the benefits of a trust apply whether your estate is large or small.

Frequently Asked Questions Regarding Trusts

5. **Can I put my home into my trust?**
   Yes, and it's highly recommended to streamline the process

6. **Does a trust cost more than a will?**
   Yes, however the additional cost is often offset by avoiding probate costs.

7. **Does the trustee get paid?**
   They can, it depends how the trust is written but the majority include a provision to compensate the trustee.

8. **Should I have a will if I have a trust established?**
   Yes. While it may not be necessary, you don't hire lawyers for the best-case scenario! We recommend having a will that puts any remaining assets into the trust upon your death.

Frequently Asked Questions Regarding Trusts

9. **I am a resident of a foreign country can I still have a trust?**
   Yes, it will control your assets here in the states. United States courts will recognize your trust here if it includes foreign assets, however that does not necessarily mean your home country will recognize a United States trust.

10. **Can I put foreign assets in a trust in Virginia?**
    Yes, you can, however I would recommend consulting with an attorney located in that foreign country to confirm that the trust will be recognized.

11. **Neither my spouse nor I are citizens, should I set up a QDOT**
    That depends on the size of your estate, QDOTs can help avoid some estate taxes that are applied to large estates; however, they do come with further restrictions as to who can be the trustee.

Contact Information

- Theseus Schulze of Woehrle, Dahlberg, Yao PLLC.

  Phone: 703-829-6233

- Firm has decades of practice with a focus on estate planning.

- Six offices throughout Virginia and four in Northern Virginia.

- Our main office can be reached at 703-829-6233 if you would like to schedule a free 30-minute consultation.

- If referred from this webinar, please make mention it when you call in or ask for Theseus Schulze.