

Utah Estate Planning



LAW OFFICE OF KYLE H. BARRICK

Dear Friends,
I hope you enjoy this inaugural issue of my quarterly newsletter. If you received this, it means that you are either one of my clients, the friend or relative of a client or a trusted advisor. In any case, I think you will find this newsletter interesting and informative.

I have decided to communicate with my clients and associates through this newsletter to provide information on topics of interest and updates in the field of estate planning. There are often changes in the law and approach to estate planning that may provide benefits to you and your family depending on your objectives. Much of my time is spent staying on top of these changes and new approaches so that I can provide you with the best possible advice in your planning. If you have questions about the issues raised in the articles or wish to discuss anything further, please do not hesitate to contact me.

In these tough economic times, many of us focus more on what is really important: Our family and friends. Estate planning is a way of making sure our family and friends are provided for should something happen to us. The gift of a well-planned estate is one of the few gifts that extend beyond our mortality.

Amending your estate documents is relatively easy, inexpensive and critical to achieving your estate planning goals.

I encourage you to review your estate planning documents at least annually to make sure they still fit your situation and meet your objectives. In particular, if you have experienced any of the following since your estate documents were most recently amended, you should contact me to review your planning:

- 1) Marriage, Divorce or Separation
- 2) Death or Serious Illness of a Spouse, Child, Trustee or Beneficiary
- 3) Birth or Adoption of a Child
- 4) Purchase of Real Property or a New Business
- 5) Changes in Assets Where Assets May Need to be Placed in Trust

Even if you have not experienced any of the above, but you have changes you would like to make, please contact me. Amending your estate documents is relatively easy and inexpensive. It may also be critical to achieving your

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What to Say...

A Conversation that You Can't Put Off

It's hard for children to acknowledge their parents' mortality. What seemed incomprehensible when we were young is still hard to come to grips with even as we, ourselves, get older.

In a recent survey conducted for The Hartford Financial Services Group, 73% of elderly parents said that they would be very comfortable talking with their children about the financial issues they may face later in life. By contrast, however, only 59% of adult children said that they would be comfortable having this same conversation.

Discussing financial information with our parents is not easy. When combined with the thoughts of a medical emergency or even death, it is even more difficult. However, the time to have this type of conversation is when your parents are healthy and independent.



Financial and estate planning is sensible at any age, as unfortunately anyone can die or become disabled. One way to start a conversation with your parents is to tell them what plans you have made for your future. Be candid about your feelings and encourage your parents to do the same; keeping in mind that this is not really a subject for small talk or one to under take in passing. Give it the time it deserves. Be clear. Ask questions and remember, this is an emotional topic.

Here are some questions that may open the discussion:

If you ever become less independent, what would you like to have happen?

Under what circumstances, would you not want life sustaining measures taken?


If you can't speak for yourself, what would you like me to say for you?

One of the many things to discuss with your parents is where to find proof of assets and legal documents, in the event they are needed. You – or someone that you can easily reach that you and your parents trust, should have a list of your parents' bank accounts, investment accounts and insurance policies. You should also be able to easily locate legal documents like birth certificates, marriage certificates, real estate deeds, tax records, employment and military records, stock and bond certificates and the location of their safety deposit box. The names and telephone numbers of doctors, insurance agents, attorneys and financial advisors are helpful.

There are numerous other documents that you and your parents should consider having prepared, among them – a durable power of attorney, a health care agent directive and a living will and of course, a will. While these documents can all be prepared without the help of an attorney; we would advise against it. These documents are some of the most important documents that your parents will ever sign – they need to be clear, consistent and above all legal in the state in which you live.

Discussions like these are so important. The "what to do if..." scenarios will eventually happen to everyone and when they do, there is comfort in knowing that you are doing exactly what your parents want you to do. The communication and subsequent decisions that you make now; will make a world of difference later on. We can help. Call our office for an in depth review of what steps you should take to care for your elderly parents.

Your TRUSTWORTHY *Family Pet*



For many of us, pets are an important part of our daily lives, more like members of the family than just “animals.” For people living on their own, their pets can take on an even greater significance, serving as a constant source of companionship and unconditional love.

The number of individuals who own pets is astounding. As many as 33.9 million households in the U.S. own dogs, and 28.3 million own cats. Interestingly, studies show that between 12% and 27% of pet owners include their pets in their wills. And this is a growing number, as the baby boomers age and move into their retirement years.

Including pets in estate plans is not a new idea for countries outside the U.S. British courts looked favorably on pet owners who sought ways to provide care for their pets after their death. Historically, that concept has not been the case in the U.S. Attempts to make inheritance aimed specifically at providing for the future of pets have not been considered legally enforceable by most courts. Currently the U.S. does not permit owners to leave any part of their estate directly to a pet.

Usually, pet owners have been limited to some rather less-than-satisfactory choices. The most common approach is to give money outright to an individual, establishing a promise that the pet will be provided with shelter, food and care in the same manner that the pet enjoyed with its owner. While this is a simple solution, it provides hardly any comfort or security. There is no legal way to enforce that promise will be kept. Another approach available, that leaves little comfort or security is known as the “honorary trust.” The pet owner chooses someone as trustee to receive funds for the care of the animal. The trustee then may honor the terms of the trust by using the funds for the animal’s care or renounce the funds to the beneficiaries of the pet owner’s estate. The beneficiaries would have received the funds if the pet had

predeceased the owner. Here, the problem is that the human beneficiaries are the only ones entitled to enforce the honorary trust. Therefore, if the trustee does not turn the funds over to the pet’s owner’s beneficiaries, they cannot be required to use the funds for the pet’s care.

Beginning in the early 1990’s, the National Conference of Commissioners on Uniform State Laws, began reviewing the then current laws and addressing the concerns of pet owners wishing to establish an estate plan for their animals in the same manner as people plan for their spouses and children. Consequently, today many states have adopted legislation that permits the creation of trusts for designated pets and their offspring.

A number of important questions will need to be answered by the pet owner. Questions such as, who should be the trustee, should the trustee and the caretaker be the same person, how much should be transferred to the trust for the care of the pet? What should be provided in additional funds to pay to the caretaker or trustee, if necessary? Should there be terms surrounding reimbursement? How should funds in the trust be dispersed, monthly? Yearly? And finally, how long should the trust last?

Making estate plans that includes your pet should be looked with the same importance to details as making any other plans or changes to your estate. Specialized estate planning – such as planning for your pet, needs the expertise of an estate planning attorney. Laws will vary per state and your individual situation will need to be addressed carefully. Your pets – because they have no voice, will be at the mercy of your estate plan, when you are no longer there to continue with their care. If you would like to include your pets in your estate plan, we can help. Call our office today and schedule an appointment.

For more information on including your pets in your estate plan, you can visit: www.estateplanningforpets.org.



*“When there is a stock market boom, and everyone is scrambling for common stocks, take all your common stocks and sell them. Take the proceeds and buy conservative bonds. If the shares keep rising; don’t worry. Just wait for the market to crash. It will. When that happens and the panic becomes a national catastrophe, sell the bonds and buy back the stock. Continue to repeat this operation as long as you live and you will have the pleasure of dying rich.”
— Fred Schwed*

This quote is from a book called “Where Are the Customer’s Yachts?” Fred Schwed wrote this book in 1940. Wise words.

from front cover

estate planning goals. I know there are many of you who need updates but have been putting them off because there are so many other things in your life that need attention. Please do not put this off too long. It is extremely important to keep your documents up-to-date in case something happens to you.

Also, if you have not completed your estate planning, trusts, wills, powers of attorney, etc., I encourage you to contact me to complete your planning and provide you and your family with the peace of mind of knowing you have these things taken care of should something happen to you. While I cannot tell you when you will need these documents, I can tell you with absolute certainty that you will need them. So why not get them done now while you are thinking about these issues?

If you do not want to receive future issues of this newsletter, or if you have friends, relatives, co-workers, neighbors, clients, etc. who may be interested in receiving this newsletter, please contact me at kbarrick@UtahEstatePlanning.com or by phone at (801) 262-4407. I hope you enjoy the articles and I look forward to hearing from you and anyone you know who may be interested in completing or updating their estate planning.

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Our law practice grows from referrals from our valued clients and friends. Thank you for thinking of us when someone you know needs estate planning.

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