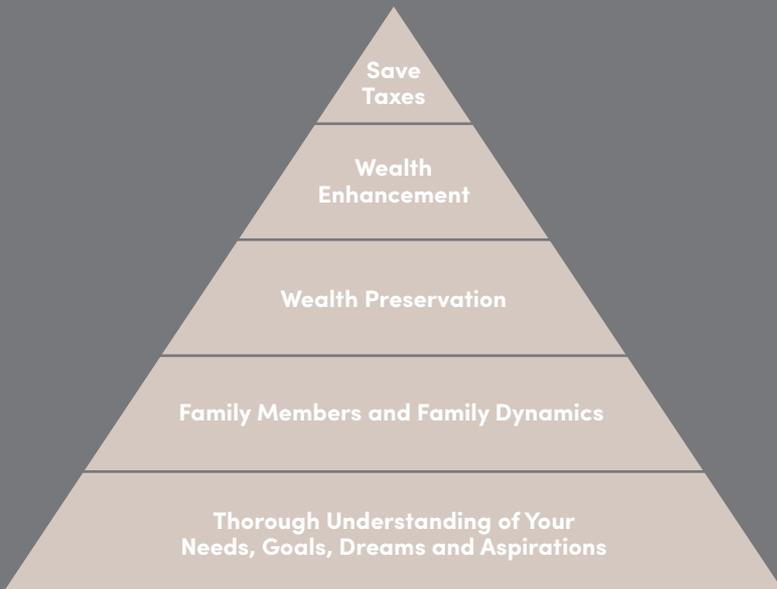


# Creating An Estate Plan That Works



*Introducing a Three-Step Strategy™  
for Estate Planning*

**THACKER · SLEIGHT**



# Creating An Estate Plan That Works

The truth about estate planning is that most plans just don't work, meaning they don't meet client expectations. A plan that works allows you to meet the definition of estate planning; to maintain control during your lifetime, plan for your disability, then give what you have to whom you want, when you want, and the way you want. To do so, let us introduce you to the Three-Step Strategy for Creating Plans That Work.

## Two Major Problems with Traditional Estate Planning

*The First Problem Is That Most Estate Plans Are Created Upside Down!*

We see the planning process as a pyramid. The pyramid's foundation is the thorough understanding of your hopes, fears, dreams and aspirations. We begin with the most important person in the world to each of us—ME! Most of us want to be sure that we (and our spouses, if married) are taken care of now, and throughout our retirement years. Most associate estate planning with those that come after us.

Thus, we need to have a thorough understanding of your family members and family dynamics—those people that you care about and who will someday receive the benefits of your success. For some people, family includes children and grandchildren. For others, it may be nieces and nephews, friends, or even community organizations.

YOU are the expert on family matters. We depend on you to teach us about your family. We'll teach you about the law. Together, we'll cocreate a plan that meets your goals.

After the foundation of the pyramid is laid, it is appropriate to discuss wealth. We find that most of our clients first want to protect and preserve the wealth that they have accumulated over the years, but then of course are also interested in enhancing that wealth.

The final building block of the pyramid is made up of strategies and tools to save taxes. Like the last piece of a jigsaw puzzle, this is the easiest piece to fit in—if all of the proper groundwork has been laid.

When we say that most estate plans are created upside down, we mean that most are built on tax planning instead of family planning! Personal family concerns and goals are relegated to a lower priority instead of being the very foundation

of the plan. We believe utilizing the Planning Pyramid approach allows us to better focus on client goals and create solutions that will ultimately make the planning both easier and more effective.

### ***The Second Problem is that Most “Traditional” Estate Plans Just Don’t Work!***

We know an estate plan works when the expectations of the client are completely met. Of course, it's really the family members who will see the results.

Why don't most plans work? We believe it's because many clients and professional advisors see estate planning as being transactional. They say, 'I did my estate plan.' In reality, estate planning is a process, not a transaction. Because everything constantly changes, your plan must be changing too.

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# The Importance of Title

Everything in estate planning comes down to title. Tax savings depend on title. Personal protections depend on title. Effectiveness of personal instructions depends on title. In other words, you and your family only receive the benefits of your planning if your plan controls your wealth. Control comes from proper asset titling.

There are basically three types of title: *Individual Name*, *Joint Name* and *Contract*. Joint Name property includes tenancy in common, joint tenancy with rights of survivorship, and in some states, tenancy by the entirety. Contracts include beneficiary designation assets (insurance, retirement plan and P.O.D. accounts) and trusts.

Assets owned in individual name are the only assets that are controlled by a will. Jointly owned accounts and beneficiary designation assets pass automatically by law. Only assets owned by or payable to a trust are controlled by the instructions of that trust.

## **The Pitfalls of Jointly Owned Property**

- Your joint tenancy property can pass to unintended heirs.
- Joint tenancy does not avoid probate, it only delays it.
- There may be unintended inheritance consequences if joint tenancy is used between non-spouses (for example, with children).
- The joint tenancy property may be subject to your joint tenant's creditors.
- Joint tenancy makes no provisions for death tax planning.
- Joint tenancy doesn't allow you to give property to whom you want, when you want and the way you want.

## **The Pitfalls of Planning with a Beneficiary Designation**

- Designating your beneficiaries on a standard business form "beneficiary designation" often means losing control of a major part of your estate. It does not enable you to leave instructions or provide guidance to your loved ones.
- Often the wrong beneficiary is named in the beneficiary designation.

- Use of a beneficiary designation won't protect the inheritance you leave your spouse and children from later creditors and predators.
- Equal distribution of a beneficiary designation asset may cause unequal results that won't meet your family's special needs.
- Beneficiary designations make no provision for death tax planning.

### ***The Pitfalls of a Will***

- Wills guarantee probate—which can generate executor and attorney fees and cause much time delay before your loved ones can receive their inheritance.
- Wills offer no planning or direction for you or your family in the event of your disability.
- Wills are easily challenged by unhappy relatives.
- Wills don't control their makers' life insurance proceeds, retirement benefits, or jointly-owned property.
- Wills are often bare-bones form documents written in hard-to-understand language. They don't capture the hopes, fears, dreams, values and ambitions of their makers.
- Wills may not be effective when their makers move to or own property in another state.

### ***The Pitfalls of Trust***

- Although most living trusts appear to be better than wills, they produce about the same result as wills if not fully funded (assets properly titled), because they do not avoid probate.
- Most living trusts are sterile legal forms that do not contain instructions for loved ones. They only accomplish limited objectives.
- Most living trusts do not achieve expected cost savings because they are not fully funded and settlement fees are not discussed in advance.





The Estate Planning Solution:  
**The Three-Step  
Strategy™**

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***It's Not About Documents—  
It's About Results!***

The key to creating a plan that works is clear, comprehensive, customized instructions for your own care and that of your loved ones. These instructions can be included in a will, a trust, and in several other related documents. We find that most of our clients are best served with a combination of these tools, developed via the Three-Step Strategy™.



## **STEP 1**

### **DEVELOP Your Plan with Counseling-Oriented Planning Partners (as opposed to with a word processing, document-oriented attorney).**

We believe much of what passes for estate planning in this country is little more than word processing! We don't believe you should pay a licensed professional to do mere word processing. Their value is in their counsel and advice, based on knowledge, wisdom, and experience. If word processing is all you want, you may as well do it yourself! But if you want an estate plan that works, seek good counseling from an attorney who is willing to work closely with other professionals such as your financial advisor and accountant.

## **STEP 2**

### **COMMIT Yourself and Your Family to a Formal Continuing Maintenance and Education Program.**

An estate plan faces a myriad of changes. First, there is constant change in your personal, family, and financial situation. Secondly, there is constant change in both tax law and non-tax law that impact your estate plan. Third, there is constant change in your attorney's experience and expertise.

Your professional advisors are continually improving through ongoing education and collected experience.

Because everything constantly changes, you cannot expect a plan to accomplish what it was intended to accomplish if it is never updated. In fact, the costs of failing to update are typically far greater than the costs of keeping your plan current.

## **STEP 3**

### **SECURE Appropriate Assistance to Assure You and Your Family that Your Wisdom is Transferred Along with the Rest of Your Wealth.**

It's one thing to pass your financial wealth to the next generation. It's a different thing to pass it along in an orderly and protected manner. And it's yet another thing to pass it along with your wisdom, a critical part of your true wealth. A good estate plan accomplishes all three things.

By working with a team of professionals, your heirs will be able to receive their inheritance in a form that is protected from creditors and predators. In addition, you can structure your estate plan to provide in-depth instructions or commentary on those things that you believe are important for those heirs to know and do.

# The Importance of the Team Approach

Creating an estate plan is not difficult, but it does require the involvement of all your professional advisors: your attorney, your accountant, and your financial and insurance advisors. If all these professionals are included in the planning, you are much more likely to have a plan that works. If not, you may receive conflicting advice that leads to confusion and inaction.

We suggest that you allow us to involve your other advisors in your planning, and keep them apprised of steps you are taking. That way everyone is fully informed and has a chance to offer their particular expertise to the process.

***A Plan that Works Meets Your Goals and Keeps You in Control of Both the Process and the Results!***

Thacker Sleight

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## **A Word of Caution**

Proper estate planning revolves around your relationship with a qualified estate planning attorney. Unfortunately, there are many businesses and salespeople masquerading as estate planning professionals. They are inundating the public with sales schemes that involve selling wills, living trusts, and other estate planning documents without the involvement of attorneys in the design and drafting of the documents. They are the opposite of what my colleagues in the National Network of Estate Planning Attorneys stand for.

Proper estate planning requires professional thoroughness by attorneys and other advisors and respect for the overall well-being of the client and the client's family. We aspire to the highest ethical professional behavior that will lend dignity to the client, the planning professionals and the planning process.