

Estate Planning Checklist in Preparation for Initial Consultation

The following is a checklist of items that you should review prior to your meeting with the attorney. These are matters that will be topics of discussion in your meeting and you should be prepared to have this information and/or answers available at that time. This is a general list and there are obviously additional, specific issues that will be particular to your unique circumstances.

1. ***Assets & Liabilities.*** Provide a complete list of your assets and liabilities with both approximate value and titled ownership. Retirement plans, IRAs and insurance policies should reflect both the ownership of the policy and the named beneficiaries. Make sure you determine which accounts are owned in your sole name or jointly with your spouse or other individual. If you have questions about this, bring copies of the bank or brokerage statements to the meeting. Deeds should reflect whether the property is owned as “tenants in common” or “joint tenants with right of survivorship”. See the Estate Planning Questionnaire available under the “Resources” tab of the firm’s website.
2. ***Current Estate Plan Documents.*** Bring with you to your appointment current estate planning documents, which may include wills, Powers of Attorney, Health-Care Powers of Attorney/Advance Directives and any trust or other estate planning documentation. Make sure that you know the location of the original estate planning documents although you need not bring them to the meeting. Bring copies of any trusts of which you are a beneficiary or residuary beneficiary.
3. ***Selecting Fiduciaries.*** Give some thought as to who you’d like to name as your fiduciaries and their successors. You can review our memorandum on Selecting Fiduciaries in anticipation of the meeting to give you some more ideas on this topic. Fiduciary is a broad term to cover a number of different positions within the estate planning realm. These include personal representative (a.k.a. executor), your agent under a Financial Durable Power of Attorney, your agent under a medical Power of Attorney/Advance Health-Care Directive, trustee (if any), and the guardian/conservator (if the need were to arise). Many of these positions can be held by the same person if it makes sense.
4. ***Disposition of Your Estate.*** Give some thought as to the disposition of your estate upon death. Your attorney will obviously review this with you in more detail. Fundamentally, you will want to decide whether or not your beneficiaries will take their shares of your estate outright or in trust. Various types of trusts can be utilized to defer the distribution of estate assets until such time as the individual demonstrates a level of maturity and appropriate age to warrant outright ownership. A living trust to manage assets during your lifetime may also be appropriate depending on the circumstances. The advantages to establishing a trust include privacy, avoidance of probate administration, professional management during disability, and continuity of administration.

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5. ***Charitable Gifts.*** Give some consideration as to whether or not you wish to make charitable gifts during life or at death. There are many alternatives available that the attorney can discuss with you.
6. ***Out-of-State Issues.*** Make sure that you disclose any assets owned in other states and whether or not there are any “domicile” issues with regard to your tax residency status. Many clients live in other states for part of the year and there is often a question as to whether or not you are a resident of Maine or the other state. See our separate memorandum on determining domicile for tax purposes.
7. ***Debts and Expenses.*** Consider the likely needs of your estate (and beneficiaries) for cash in order to pay debts and expenses of administration upon death.
8. ***Business Interests.*** Provide information regarding any family business interests, including stock ownership, shareholder agreements and the like, and give some thought as to succession considerations.
9. ***Long Term Care & MaineCare.*** Long term care, based either in your residence or in a nursing home, is a very complicated and involved topic. There are many alternatives to long term care which can be discussed with the attorney. Depending upon the size of your estate, there is a possibility that MaineCare (Medicaid administered by DHHS in the State of Maine) can be an important issue for discussion. For more information on this, review my memorandum on long term care and MaineCare eligibility. Basic planning to protect assets and retain your eligibility for MaineCare involves making sure the spouse can stay at home, examining whether transfers of assets to the community spouse make sense, and maximizing the use of excluded resources and allowable transfers under existing regulations.
10. ***Family Issues.*** Make sure that you are prepared to discuss special needs and unique family dynamics that may exist within your family or chosen fiduciaries. Remember that the attorney can only provide you with comprehensive advice on these important legal issues if he has been fully apprised of these types of concerns. Once the attorney-client privilege is established, these matters will be protected pursuant to that privilege and you should feel free to discuss openly your concerns regarding family issues.
11. ***Relatives.*** If you are single and have no surviving parents, you should bring a list of your closest relatives. Probate requires noticing your “heirs at law” and that information ought to be determined as part of the estate planning process.