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Wills Probate & Estate Planning
Michigan State University Cooperative Extension Service
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Wills, Probate & Estate Planning

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*A discussion of alternative property ownership patterns
and estate transfer methods.*

Cooperative Extension Service
Michigan State University

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Every person who owns property has an estate that must be distributed when he or she dies. An estate plan created by the property owner—or the lack of one—will determine who will inherit the property. Many Michigan residents would be surprised to learn how their property could be distributed after they die and what it would cost to make the transfer.

Most property is acquired during the earlier or middle years of life when attention is focused on lifetime uses instead of lifetime or death transfers. But the names on property titles have estate transfer implications, and changes in property ownership during lifetime or at death have tax impacts. How you transfer your estate, when you transfer your estate and what individuals will receive your estate should become important questions when you acquire property, not just when you develop estate plans. Thus, you should formulate estate planning goals early in life to guide lifetime holdings.

Wills, Probate and Estate Planning discusses alternative property ownership patterns and estate transfer methods. It should help you understand how you own existing property, how you might own future property and how the property can be transferred during your lifetime or at your death.

KINDS OF PROPERTY

To evaluate your estate position properly, you need to understand several terms related to property ownership.

There are two kinds of property—real and personal. Real property, or real estate, is land or any improvements upon the land, including buildings, fences, growing crops, timber, oil and minerals. (When timber is cut, crops harvested or oil recovered, however, it then becomes personal property.) Evidence of ownership in real property is the deed recorded with the county register of deeds. The deed describes the property, the persons who are relinquishing ownership of the property, the persons who are acquiring the

property and the ownership rights being conveyed to the new owners.

Personal property is everything other than real property. It can be classified as either tangible or intangible. Tangible personal property is physical property in the nature of goods, wares or merchandise, such as clothing, furnishings, livestock, harvested crops, machinery and equipment. Some personal properties have titles, such as automobiles and trucks, that show who owns them. The ownership of other tangible personal property is evidenced by bills of sale or other documents. For example, a father and son may be involved in a farm partnership with a partnership agreement that spells out ownership of personal property by the partnership with the father and son each owning a share in the partnership.

Who owns tangible personal property becomes an important question when a death occurs and the decedent's estate is transferred and subject to taxation. For example, assume a farmer has taken one or two children into an undefined family farm business arrangement. They all work together and take from a common income source. Who owns the farm personal property? When the father dies, unless there are records to the contrary, it probably will be assumed that he owned all the farm personal property and the estate will be transferred and taxed accordingly. The same question is important for a husband and wife team. What share of the personal property is part of his estate? What share is part of her estate?

Intangible personal property is a claim capable of being enforced on or against other individuals or entities. It is paper property, such as securities, notes, bank accounts, contract obligations, mortgages, copyrights and patent rights. A piece of paper shows who owns the property. Passbook accounts and certificates of deposit at your local bank or savings and loan association are examples of intangible personal property whose ownership is designated on the document.

WHAT IS PROPERTY?

In ordinary usage, "property" refers to the thing that is owned or held. Thus, a car or land is referred to as "my car" or "my land." For present purposes, however, think of property not as something owned, but as the intangible and invisible rights, powers, privileges and responsibilities of the owner.

What is commonly called property really involves a number of separable rights. In a piece of land, these rights represent the right to sell, to lease, to grant a mortgage, to grant easements, etc. As the property owner, you have the responsibility to pay taxes and to use the property for its regulated purpose. Think of these rights as strands in a cable running from the property to the owners. Each of these rights can be separated from the others and exercised separately. For example, a property right of access could be transferred to the power company for maintaining power lines, or the property could be mortgaged and a security right given to the mortgage holder to ensure payment of the remaining debt balance. At the same time, the land could be leased to the neighbor for growing crops.

Obviously more than one individual can own rights in property, together or separately. The rights in the property are often referred to as economic interests in the property. These economic interests can be transferred for a time period or until an event happens. For example, an owner of land and a house could transfer (sell or give) the property to another while reserving the right to live in the house and receive a rent income from the land. These rights could be shared by the original owner and his/her spouse and relinquished only at the death of both parties. This example is commonly referred to as a life estate or life lease. Other examples exist where economic interests are shared in some manner.

The economic interests or rights in property that are held by an individual become part of his

or her estate to be transferred at death. The value of those economic interests is part of the taxable estate. If the decedent owned all the property rights, the value is usually higher than if he/she held only a few rights. (Taxation of estate transfers is explained in other Extension bulletins. Please refer to these publications for details.)

WAYS TO HOLD PROPERTY RIGHTS

An individual receives and holds property rights through the property deed, contract or other evidence of ownership. A deed or title or other evidence of ownership is more than a piece of paper conveying ownership. It isn't something to be stuck in a drawer and forgotten. Rather, a title is an important part of your total estate plan. In fact, an adequate estate plan cannot be constructed separate from the titles involved and the information on them.

The names on the titles can affect how property rights are transferred, who gets them, and how much estate settlement and taxes will eventually cost. All of these depend on the way the property title is held—sole ownership, joint tenancy, tenancy by the entirety or tenancy in common. Each of these methods has its advantages and disadvantages and must be weighed in light of specific estate management plans.

Fee simple (sole) ownership is ownership of property by one person who has an unrestricted right to sell, mortgage or otherwise dispose of it. A will is needed to direct transfer of the property at the owner's death. When property in sole ownership is held by a married person, however, the will transferring the interest is subject to the surviving spouse's dower, homestead and other special rights in the property unless the surviving spouse waives those rights. Without a will, state laws will determine who receives the property.

Under sole ownership, full control of the property remains with the owner until death. During his/her lifetime, any or all property rights can be transferred through sale or gift.

JOINT TENANCY

Joint tenancy with rights of survivorship is a form of co-ownership between two individuals or more in which property passes from the deceased tenant to the survivor(s) with only a

small amount of legal formality. This type of co-ownership may exist between related or unrelated persons and cannot be broken without the consent of all owners.

Tenancy by the entirety is a special kind of joint tenancy that can exist only between husband and wife. This type of tenancy cannot be broken by either spouse without the other's agreement.

Property held in these types of co-ownership will pass to the survivor(s) even though the deceased joint tenant has directed by will that his or her ownership rights in the property should go to someone else.

On the death of one joint tenant, full ownership of the property vests immediately in the other(s). It does not pass as part of the deceased's estate—it passes by operation of law. This avoids probate and administration on this part of the decedent's estate, thereby reducing cost and delay.

During their lifetimes, the joint owners can transfer property rights to others.

TENANCY IN COMMON

Tenancy in common differs from joint tenancy mainly in that there is no right of survivorship. The co-tenants have a right to transfer their own undivided interest by selling it, giving it away, or transferring it to persons of their choice at death. If the co-tenants die without wills, their interests go to their respective heirs according to state laws.

METHODS TO TRANSFER AN ESTATE

Transfer of property at death usually takes place in one of four ways—through contracts, title transfers prior to death, joint tenancy and probate procedures. In practice, all four methods may be used to transfer an estate, or one method may be used to transfer part of the estate.

Part of each estate will probably be distributed through contractual arrangements with others. An example would be a life insurance contract on the deceased in which beneficiaries have been named to receive the insurance proceeds. By contract, this part of the estate passes directly to the named beneficiary. If no beneficiary is named in a life insurance policy or the beneficiary has died, the proceeds become part

of the probate estate of the insured and are distributed according to the will or, if there is no will, according to state law.

Annuities and death benefits from a retirement program are transferred by contractual arrangements directly to named beneficiaries. It is important to keep the designation of beneficiaries up to date so heirs whom you intend to receive the proceeds of life insurance and retirement plans will receive this property.

The transfer of property title prior to death reduces the amount of property in the estate to be transferred at death. Transfer during lifetime can take two general forms—complete severance of ownership rights in property, or transferring title ownership but retaining rights during one's lifetime. A lifetime gift or sale of property results in the owner's transferring property rights to others. However, in reality a sale is a transfer of one type of property for another. For example, land may be sold and the proceeds invested in savings accounts at the bank or savings and loan association. A lifetime transfer through gift may have gift tax implications and a sale may have income tax implications, so check the tax rules before making a transfer.

The transfer of ownership while retaining rights in the property during a person's lifetime can be accomplished in several ways. The most common are: a living trust whereby title is transferred to an artificial person called a trust, with a trust agreement often providing that certain property rights be retained for life and then the eventual distribution of those property rights to the beneficiaries; and a life estate whereby title is transferred to others while the original owners keep life interests or rights in the property. Life estates are generally created by deed or in a will.

The third way property can be transferred at death is through joint ownership of the property with one person or more. The main advantage of joint tenancy is that ownership of the property vests immediately in the other owner(s) upon the death of a joint tenant. Joint ownership (tenancy by the entirety) is the most common way that married people own their property.

All property owned by the decedent that is not transferred by one of the above methods is part of the probate estate and is transferred according to the terms of the will or, if there is no will, by state law.

Probating an estate is the legal procedure used to gather together all of the property of the deceased person; pay all of his or her valid debts, including final taxes and funeral expenses; and transfer legal title of property to the persons provided for in a will or the person's heirs.

The three groups most interested in the probate proceedings, therefore, are the heirs or persons provided for in a will and creditors. Many people incorrectly associate probate with death taxes and for this reason want to avoid probate. This is not a valid reason to avoid probate. Death taxes may be levied even on property that is not probated. The laws determining death taxes are separate from the probate process.

Probate has developed through the years as a court procedure whereby all the conflicting claims of these three groups are legally resolved. Probate comes from the Latin word meaning "proof." Originally, probate referred only to wills, but now has come to mean the process of settling an estate.

Probate courts are an important branch of our legal system. Without court administration, there would be no legal determination of whether the deceased left a valid will, who the heirs are or who is legally entitled to inherit the property interests of the decedent. Further, title to real estate would be clouded without this court determination. Prospective buyers would hold off until the title was cleared. A will that has been admitted to probate determines who shall receive the rights to property from a decedent. A will has no legal standing until it is admitted to probate.

Without provision for legally limiting the time for proving claims, creditors could continue to assert them against the property, the heirs or even later purchasers of the property. If death taxes are not computed and paid, they would become liens against the property and accumulate interest and penalties. Without probate, including approval of an estate's closing and distribution, only uncertainty would exist. No transfer of the decedent's property would occur

and there would be no determination of the validity of claims.

KINDS OF PROBATE

There are two types of probate: court-supervised probate and independent probate. Independent probate avoids certain steps in the probate proceedings and usually reduces the required time and cost of probate. Whether time and cost can be reduced with independent probate depends on the estate situation. A request must be made to probate court for the estate to use the independent probate procedure. Independent probate requires that certain legal procedures be followed but without court supervision. Consult your attorney for the advantages and disadvantages of court-supervised probate or independent probate for your situation.

An estate can be opened when an interested party files a petition to start proceedings, including any will of the deceased, with the probate court in the county of residence. This interested party could be the spouse, one of the decedent's children, other heirs, next of kin or the personal representative nominated in the will. Thirty days after a death occurs, a creditor may petition to start probate.

The person who has possession of the will is legally responsible for forwarding it to the court for filing within 30 days after the death of a testator (the one who made the will). If an interested party doesn't offer the will for probate within 30 days, a creditor may petition the court to start proceedings and have the will admitted to probate.

After this initial petition is filed, the court sets a hearing date for the will to be proven for probate. Notice of this hearing will be sent to all legally interested parties and may be published in the local newspaper so that all concerned parties will know that the will is to be offered and that a personal representative will be appointed.

At the initial hearing, several things usually happen: the will may be admitted, heirs at law

may be determined, a personal representative may be appointed and bond may be set for the personal representative. A cutoff date may also be set for creditors to file claims with the court and present them to the personal representative.

If, after a person dies, all interested parties agree, an estate can be opened “on waiver and consents” without the necessity of setting a hearing date and serving notice on interested parties. Also, if the interested parties agree on a personal representative in writing, this can all be accomplished as soon as the necessary papers are prepared and presented to the court. If the decedent dies intestate (without a will), the opening procedures are quite similar. A widow, heir, next of kin or legal representative of any of these can petition the court to appoint a personal representative for the estate. If the heirs have not acted within 30 days from the death of the decedent, a creditor can petition the court to probate the estate.

PERSONAL REPRESENTATIVE

Almost anyone can be chosen as personal representative as long as he or she is of sound mind and at least 18 years old. Usually the judge abides by the wishes of the deceased as expressed in the will or, if there is no will, appoints an heir or someone agreed upon by the beneficiaries. The closest next of kin has a statutory priority to be appointed or to designate who should be appointed. The probate judge makes the final decision.

Who should be nominated in your will as a personal representative? One of the first things to consider is age. It would be foolish to nominate someone likely to die before you.

A personal representative should have a sound business head and be competent and trustworthy. If you operate a business, it would help if the person had knowledge of your enterprise because he/she will need to oversee its operation while the estate is open.

Often, a family member or spouse is named personal representative. He or she should be familiar with the property and family needs. Choosing a professional personal representative has its advantages, however. The biggest single advantage of a professional is that handling estates is his/her job and he/she knows how to

transfer property with the least effort and in the shortest period of time.

Most banks and trust companies have staffs with experts in many estate management and transfer areas and can provide the services of a professional personal representative. This is especially important in the area of taxes. Many taxes may have to be paid by an estate. Each has its own special deadline and filing requirements. Missing any one of these could result in heavy penalties and interest.

Another possible advantage of hiring a professional representative is that the professional is a disinterested party. As a result, he/she can be impartial and less influenced by family disagreements than a family member might be.

If a property owner feels it is important to have someone involved in settling the estate who knows the family and the family situation, it is possible to appoint a co-representative to meet these needs.

Another consideration in deciding whether to choose a professional personal representative is the type of property involved—e.g., stock market securities, cash, real estate, primarily an operating business, etc.

DUTIES OF THE PERSONAL REPRESENTATIVE

Once a personal representative has been appointed by the court, the person may file a bond to guarantee performance or file an acceptance of trust promising to faithfully administer the estate. The probate judge determines which is required. By making a proper provision in the will, the testator can avoid the necessity of the bond. This bond may cost hundreds of dollars, depending on the size of the estate, but it guarantees that the heirs and/or devisees will receive their inheritance if estate assets are wrongfully dissipated or misappropriated.

The personal representative has 56 days from the time the letters of authority are issued to file an inventory of all the assets of the estate, although in complicated cases this time limit can be extended. This can be a difficult procedure because of the disorganized condition of the assets in some estates.

The personal representative is required to list all assets of the estate in the inventory and

their fair market value as of the date of death. This list is used in computing the necessary taxes. Non-probate assets may be subject to state inheritance taxes under certain circumstances and probably are subject to federal estate taxes, unless the estate is exempt.

CLAIMS BY CREDITORS

When a personal representative is appointed, he or she must publish in a local newspaper a date by which all claims against the estate must be filed with the court and presented to the personal representative. By law, the date for filing those claims must be between two and four months after the date of the newspaper publication.

Claims of creditors are filed with the court and the personal representative. If the personal representative does not file objections to a properly filed claim within 20 days, the claim is deemed to be valid and is allowed. If an objection is filed, the creditor is entitled to a court hearing on the validity of the claim.

After the claim period for the estate has been closed, tardy claims may be filed within 18 months, but only if the probate judge determines that good reasons exist for their being tardy. There is a penalty for filing a tardy claim. All claims must be filed before the estate is closed. If the estate is solvent, the valid creditors' claims are then paid. If the debts are greater than the assets, claims are paid in a specific order until the assets run out.

Estate administration and funeral expenses are paid first. Next comes the spouse's or children's allowance. Under Michigan law, the surviving spouse and/or minor children are allowed a homestead allowance of \$10,000, up to \$3,500 worth of household and personal effects, a reasonable family allowance for one year and use of the dwelling of the decedent for one year. Once the spouse's allowance has been set, the claims allowed against the estate are paid and all inheritance and estate taxes are paid.

It is interesting to note that it is impossible to close an estate being probated until clearance is obtained from the federal and state tax authorities. One of the main reasons some people try to avoid probate is the idea that they will be able to avoid state and federal taxes. This is generally not true. Taxes may be due against the estate even though the property does not have to be probated.

The personal representative must pay the allowed claims from cash that is part of the estate. Then, if needed, property of the estate will be sold in an order of priority to settle the claims. After the claims are closed and paid—and at least annually, if the estate is open more than a year—the personal representative files an account with the court, showing income to the estate, its sources, an itemization of amounts paid out and the amount left. The court then distributes the remainder to the devisees according to the will, if there is one, or to the heirs according to statute, if there is no will.

Generally, the actual property is distributed, if possible. If it isn't, the property is sold and the money is distributed.

A will is, very simply, a legal document by which a person disposes of property to take effect at his/her death. It affects only assets held in his/her sole name or the decedent's share of ownership rights to assets owned as tenants in common. It does not include such things as life insurance policies with a living beneficiary or joint property, which are passed by other means.

A will is one of the oldest instruments known to man and one of the most difficult to destroy legally. The primary advantage of a will is that it allows a person to determine exactly how his or her estate will be transferred at death, instead of leaving that determination to state law.

Over the thousands of years of its development, the language used in wills has acquired very specific meanings to the judges responsible for probating wills in estates. For this reason, it is highly advisable to have a will drawn up by a competent attorney with experience in drafting wills.

A will may be made by any person over the age of 18 and of sound mind to dispose of all of his or her assets. The advantages of a will are numerous and important to most estates.

If you make a will:

- Your property can be distributed as you wish.
- The cost and time for settling the estate may be reduced.
- You can name a personal representative to take care of your business.
- You can name guardians and conservators to care for your minor children and for their inherited and other property.
- You may create a testamentary trust.
- Family quarrels may be avoided.

KINDS OF WILLS

It is impossible to die without a will of sorts. There are handwritten wills, wills formally drawn up by your attorney and statutory wills. The statutory will is the newest type of will created by

the Michigan Legislature in Public Act 61 of 1986. It allows people to create their own wills, known as Michigan Statutory Wills, by completing a relatively simple form.

If you don't prepare a will, the state laws of descent and distribution take over. They act as an "average will" with the result that they don't take into consideration your special needs, problems and wishes. All your individually held property is put in a pot, so to speak, stirred and distributed according to the laws.

For many Michigan residents, the state "will," as represented by the laws of descent and distribution, provides a very unsatisfactory means of transferring property. The estate generally gets hit with the maximum state and federal tax bite. The deceased has no say in who will act as the personal representative in settling the estate. If a husband and wife die without wills in a common accident, the courts will be forced to appoint a guardian/conservator for their children. This would perhaps not be the person the couple would have chosen.

The probate court desires to do exactly what the deceased would have done with the property had the person been present to express his or her wishes. A properly executed will is the best way to tell the probate judge what your wishes are.

DISTRIBUTION

One of the first advantages of a will is its power to enable the owner to distribute property to best fit the situation and his/her desires. Through a will, not only can the testator (one who makes a will) make unequal distribution of property as he/she deems proper, but also can make specific bequests that would be impossible without a will. For example, a father can make sure his oldest son gets his grandfather's watch, or a mother can hand down a special piece of furniture to the daughter who always appreciated it.

TAX SAVINGS

A will can be used to take advantage of the various legal methods of reducing state and federal death taxes. Two principal means are dividing property to take maximum advantage of the federal estate tax marital deduction, and use of a testamentary trust. The latter avoids the large taxes that result on the death of the second spouse when much of the estate is in one person's hands.

Both husband and wife should have wills. There are many reasons for this, but one involves taxes, specifically. If a husband and wife are both killed as a result of the same accident but one survives the other, if only briefly, their property will be subject to double probate and extra taxes. A good will contains a special provision to protect the estate against such an occurrence.

In fact, because of the passing of joint property, the surviving spouse needs a will to transfer the property that was held in joint ownership. Although much of the property may be held in joint ownership, when the husband or wife dies, the surviving spouse then holds the total estate in fee simple ownership. Because of the much larger size of the estate left by the surviving spouse, the benefits from having a will—and the penalties for not having one—will be proportionately greater.

GUARDIANSHIP/CONSERVATORSHIP

If both spouses die without a will, the court has the duty to decide on the guardianship of their minor children and conservatorship of their property. Parents should make this choice, not the probate judge, who doesn't have any idea how the parents would have desired their children to be reared.

Although the naming of a guardian/conservator in a will is only a recommendation to the court, it is usually followed if the court regards the nomination as reasonable for the interests of the children.

It is possible to have two persons named—one who is responsible for the children and their care, the other responsible for the children's financial affairs. Without wills specifying their choice for guardian, a couple's children might be

raised by a close relative whose child-raising abilities the parents had highly criticized during life.

CHARITIES

Through a will, it is also possible to leave sums of money or property, outright or in trust, to your favorite charity, hospital, church or university.

Another advantage of transferring property by will is that the property owner can retain full control of the property until death.

WILLS CAN BE CHANGED

Once a will has been drawn, signed and witnessed, it can—and probably periodically should—be changed. This allows the property owner to keep pace with changing family and property situations.

Most married people should typically have at least three wills in their lifetime: when they are first married and before their property has accumulated to any great degree; later on, when the children are partially grown and the couple's property has begun to accumulate, and when the couple reaches retirement age. Wills should be periodically reviewed, especially if there are any general revisions of the tax laws or the probate laws.

COST OF A WILL

The cost of making a will should not deter anyone from doing it. The cost isn't high. Attorney fees for drafting a will vary, but a simple will can usually be drafted for less than \$100. Naturally, if the will includes special provisions such as a trust, the cost would be higher. Any attorney will provide an estimate of a will's cost before it is drafted. Ask for it. Quite often a properly prepared will can save many dollars for the estate later. The planning and legal counsel can save dollars and time and assure that your estate will be handled properly.

JOINT OWNERSHIP

One of the most common reasons for failing to make wills is the belief that it is unnecessary when a married couple owns all their property together in tenancy by the entirety. Though the will does not direct the disposition of jointly held property when the first spouse dies, the survivor needs a will to distribute the property to the family. A will is especially needed when a common accidental death takes the couple.

Jointly held property has advantages for many married couples. When the individuals separately own property, each should have a will to direct its distribution. The use of trusts for tax savings and property management purposes, special bequests by each individual and second marriages are among the reasons why all property may not be jointly held. In business situations, the transfer of business property to a partner may be needed, along with money compensation to the surviving spouse.

MISCONCEPTIONS

Some people fail to make a will because they think a will can be broken, so why make one? Though well publicized cases involving will contests have occurred, proper drafting of a will can avoid such action. For a will contest to be effective, the person contesting the will must prove that the testator was of unsound mind or acted under undue influence. Planning can reduce the chance of a will contest on these grounds.

Other people associate wills and probate and think that if they don't make a will, their property is not probated. This is not the case. If property is probated, the will gives instructions to the probate court on its distribution. The opposite, however, is not true—making a will does not cause property to be probated.

In the absence of sound plans worked out by the deceased and reflected in a will, property will be distributed at death according to a rigid formula of law contained in the revised probate code. It applies only when there is no will, and it is arbitrary and inflexible.

The state of Michigan has made these laws to meet the ends of impartial justice. They supposedly reflect how the legislature thinks the “average” property owner would like to have his/her property distributed among the heirs. Because these rules are arbitrary and inflexible, however, the actual wishes of the deceased seldom will be carried out.

The law specifies different ways of distributing the estate, depending on what heirs survive the deceased.

Married with children—For a married person with child, children or descendants, property is divided between the surviving spouse, who receives the first \$60,000 plus one-half the remaining balance of the property, and the children, who receive one-half of the remaining balance of the property divided equally.

Married without children but with at least one parent surviving—The surviving spouse receives the first \$60,000 plus one-half the remaining balance of the property, and the parent or parents receive one-half of the remaining balance of the property.

Widow or widower or single person with children—All property goes to children, divided equally. Grandchildren take their deceased parents’ share.

Unmarried—In cases of an unmarried person or a widow or widower without children or descendants, the distribution is as follows: If the parents survive, all goes to the parents or survivor. If no parents survive, all property goes to brothers and sisters, divided equally. Nieces and nephews take their deceased parents’ share. If no parents, brothers or sisters survive, the property, divided equally, is received in equal degree by next-of-kin. If no kin exist, all goes to the state.

Make a concrete beginning by itemizing all of the property in your estate—both real and personal—and assigning a fair market value to the property. (Use Table 1 financial statement for a record.) Don't forget the value of life insurance policies, savings accounts and stocks, bonds and other investment properties.

Retirement programs with a death benefit value are also part of your estate. Social Security has a small death benefit value. What about some of the other retirement programs such as an IRA (individual retirement account) or Keogh plan? Maybe you have a retirement program from your place of employment.

Add up all your debts and subtract them from your total assets to arrive at a net value for your estate. When doing so, be sure to consider the credit life insurance on debts. Don't include debts covered by this type of insurance in your debt list.

You may find the net value of your estate surprisingly large, especially if you have much real estate.

Determine how your property would be distributed if you died under your present estate plan. Who would receive your property? If you have no will, distribution will be determined by the formula set by law. If you are married, it is important for your spouse to make the same evaluation.

How much of the estate would be transferred through the probate process? How much would go directly to beneficiaries as a result of contractual arrangements? What share of your property would go directly to joint tenants? What effects would these arrangements have on the taxes you and your estate will have to pay?

Determine the objectives you want in your estate plan. If you are married, do this as a couple, not individually. You both either have, or

TABLE 1. Financial Statement for Estate Planning

| <i>Assets</i> | Your property | Property owned jointly with spouse | Spouse's property |
|--------------------------------|-----------------|------------------------------------|-------------------|
| Savings accounts | \$ _____ | \$ _____ | \$ _____ |
| Bonds | _____ | _____ | _____ |
| Stocks | _____ | _____ | _____ |
| Value of life insurance | _____ | _____ | _____ |
| Value of retirement annuities | _____ | _____ | _____ |
| Individual's personal property | _____ | _____ | _____ |
| Business personal property | _____ | _____ | _____ |
| Residence | _____ | _____ | _____ |
| Real estate | _____ | _____ | _____ |
| TOTAL | \$ _____ | \$ _____ | \$ _____ |
| <i>Liabilities</i> | | | |
| Personal loans | \$ _____ | \$ _____ | \$ _____ |
| Real estate loans | _____ | _____ | _____ |
| TOTAL | \$ _____ | \$ _____ | \$ _____ |
| ESTATE NET WORTH | \$ _____ | \$ _____ | \$ _____ |

will have, spent many years building up this estate together, and you should decide together how it should grow and eventually be distributed.

When considering the eventual distribution of your estate, consider the question of equitable—not equal—treatment of your children. What property, if any, do you want particular children to have? Should the transfer be made before death or after death? If a living transfer is desired, what is the best time to do it? What are the transfer tax implications of your plan?

After comparing your answers to the two previous points, decide what changes are needed in your present plan to meet the objectives you have outlined. What needs to be changed if your objectives aren't accomplished? What documents need to be changed? Do you need a new will? Is a trust an important part of your total estate plan? Should you be using more or less life insurance at this stage of your life? Are there some investments you should change? If you're in a business, should you change the type of organization?

When you have evaluated your present estate plan—or lack thereof—your goals and the changes that would need to be made to attain them, the next step is to seek skilled, experienced assistance. Many professionals work in the estate planning field. They are all important if you need their assistance. Most families will not require the services of all five of the main types of professionals, but some may.

LAWYERS—All will need the services of an attorney in drafting legal documents—such as wills, trusts and business agreements—to implement estate plans.

LIFE INSURANCE—Changes in life insurance beneficiaries can be made through the representative of the life insurance company with which you now hold your policy. Perhaps you will also need to purchase more insurance for a specific purpose. Your agent can also give you ideas on how life insurance can be used in your total estate plan.

ACCOUNTANT—An accountant can help evaluate your business arrangement, such as a corporation or partnership. He or she can assist in preparing tax records and in determining tax implications to the estate with various courses of action.

TRUST OFFICER—If, in analyzing your situation and formalizing your objectives, you find a trust would be useful as a part of your total estate plan, or if you want a bank trust department as the professional personal representative of your estate, contact your local bank. A trust officer can assist you in determining how a trust may achieve the objectives for your estate transfer.

INVESTMENT COUNSELOR—Changes in investments are an important part of estate planning. Contact your financial advisor, stock broker, life insurance representative or others in the investment field to assist you in evaluating alternative investments and to provide assistance in making new investments.

Once your estate plan has been carefully worked out and legally formalized, review your plan every year, or every other year at the most, for possible changes in family situations or objectives.

Plans should be written for a three- to five-year period and reviewed and changed to meet changing conditions. Don't expect to develop an estate plan that will last the rest of your life.

Just as you have an estate, you also have an estate plan. Your plan can be well thought out, complete and people-oriented. As such, it will help your estate grow and flourish to the maximum of its potential. It will also bring you peace of mind, security and contentment.

If your estate plan consists of many unrelated pieces with no guiding goals, however, progress may be difficult. Hard-earned money may seep away through unnecessary taxes. Retirement may find you unprepared and ill-financed. Your family may argue over who should receive the property.

This publication is an introduction to estate planning. It has shown a process you can use in starting to develop an estate plan. If you have unanswered questions about death taxes, business organization and tools in estate planning, the following Extension publications may help answer some of those questions. These bulletins are available from your county Cooperative Extension Service office.

E-693, *Planning Your Will*

E-451, *Record of Important Family Papers*

E-1231, *Federal Estate and Gift Taxes*

E-1345, *Trust Uses in Estate Planning*

E-1348, *Michigan Inheritance Tax*

The following bulletins are for farmers to use in organizing their businesses and developing estate plans.

E-731, *General Partnership for Agricultural Producers*

E-1346, *Life Insurance Uses in Farm Estate Planning*

NCR-11, *The Farm Corporation*

NCR-43, *Taxmanship in Buying or Selling a Farm*

NCR-49, *Retirement Planning for Farm Families*

NCR-50, *Farm Business Arrangement: Which One For You?*

NCR-56, *Long-Term Installment Land Contracts*



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