DETERMINE YOUR NEEDS

When assessing your estate planning needs, there are several things you should consider:

- How and when you want your wealth to benefit your heirs and your community
- Your current and future cash flow
- Your estate's ability to pay taxes and other expenses
- Who will manage your assets and your health care if you incur a disability

Depending on your life status, there are certain alternatives that may best fit your situation. The following is a breakdown of recommendations, depending on your life stage:

Over age 18

Since incapacity can strike anyone at any time, all adults over 18 should consider having:

- **A durable power of attorney:** This document lets you name someone to manage your property in case you become incapacitated and cannot do so.
- **An advanced medical directive:** The three main types of advanced medical directives are (1) a living will, (2) a durable power of attorney for health care (also known as a health-care proxy), and (3) a Do Not Resuscitate order. Be aware that not all states allow each kind of medical directive, so be sure to execute one that will be effective for you.

Estate Planning Rules of Thumb

- Everyone should have three estate planning documents:
  1. A power of attorney
  2. A living will
  3. A will
- Everyone with a net worth over $1.5 million should have a family trust.
- Couples with a net worth over $3 million should consider advanced planning beyond the family trust.
- Everyone with a net worth over $5 million, or those in a litigious business, should consider asset protection planning.
- Everyone with a successful business should have a succession plan.

Please note: Estates of non-citizens or of U.S. citizens married to non-citizen spouses are not protected by the unlimited marital deduction.

Young and single

If you're young and single, you may not need much estate planning. But if you have some material possessions, you should at least write a will. If you don't, the wealth you leave behind will likely go to your parents, which may not be what you want. A will lets you leave your possessions to anyone you choose (e.g., your significant other, siblings, other relatives, or a favorite charity).

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Determine Your Needs continued

Unmarried couples

You've committed to a partner, but you aren't legally married. In this case, a will is essential if you want your property to pass to your partner at your death. Without a will, state law directs that only your closest relatives will inherit your property. If you share certain property with your partner, such as a house or a car, you should consider owning the property as joint tenants with rights of survivorship. That way, when one of you dies, the jointly held property will pass automatically to the surviving partner.

Married couples

Married couples are generally treated as one economic unit for federal gift tax and federal estate tax purposes. You can use what is called the unlimited marital deduction, which can conceivably give or leave your entire estate to your spouse, tax-free. The deduction not only allows spouses to shift wealth between each other without incurring gift tax or estate taxes, but it also allows spouses to maximize the benefits that result (e.g., equalizing your estates to take full advantage of the applicable exclusion amount). This is especially important since the passage of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), which has increased the exclusion amount (as described in the **Wealthy and worried** section of this document).

Married couples should also consider creating a bypass or credit shelter trust.

Married with children

If you're married and have children, you and your spouse should each have your own will. For you, wills are vital because they can name a guardian for your minor children in case both of you die simultaneously. If you fail to name a guardian in your will, a court may appoint someone you might not have chosen. Furthermore, without a will, some states dictate that some of your property will go to your children and not to your spouse. If minor children inherit directly, the surviving parent will need court permission to manage the money for them.

You will also need life insurance because a surviving spouse may not be able to support the family on his or her own and may need to replace your earnings to maintain the family. Moreover, you may want to establish a trust to manage your children's assets in the event that both you and your spouse die at the same time.

Comfortable and looking forward to retirement

If you're in your 30s, you have accumulated some wealth and are thinking about retirement. This is where estate planning overlaps with retirement planning. It's just as important to plan to care for yourself during your retirement as it is to plan to provide for your beneficiaries after your death. Keep in mind that even though social security may be around when you retire, those benefits alone may not provide enough income for your retirement years. Consider saving some of your accumulated wealth using other retirement and deferred vehicles, such as an individual retirement account (IRA).

Wealthy and worried

Depending on the size of your estate when you die, you may need to be more concerned about federal estate taxes. EGTRRA gradually eliminates these taxes by increasing the amount exempted from these taxes over several years (from $1 million in 2002 and 2003 to $3.5 million in 2009); reducing the top estate tax rate

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Determine Your Needs continued

over several years (from 50 percent in 2002 to 45 percent in 2007 through 2009); and finally repealing estate taxes for persons dying after 2009. *Under a provision in the law, however, pre-EGTRRA rules return after 2010.* EGTRRA contains several other changes that may affect your previous estate planning; therefore, it may be important for you to re-evaluate your current plan.

Elderly or ill

If you're elderly or ill, you should have an updated will, and you may want to consider a revocable living trust. Be sure you have a durable power of attorney and a health-care directive. Lastly, talk with your family about your wishes, and see to it that they have copies of your important papers or know where to locate them.

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