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This is an outline of estate planning which is intended to help clients grapple with the facts of their lives and arrive at a practical approach to an estate plan. This outline leaves to individual discussions with clients the application of these questions, comments, and tools to particular individuals and couples.

This outline raises some tax considerations. We do not hold ourselves out as tax advisors, and, therefore, we are raising the issues here for further research by our clients with tax advisors of their choice.

This outline may be submitted by itself or it may be a part of a package. This outline is intended to be provided in its “generic” format, but circumstances may require that specific comments appear here rather than in accompanying correspondence or planning documents (“tools”).

This outline does not directly address two topics which may be important to some clients: Medicaid planning for elderly parents; and financial and tax planning for special needs children. We do not attempt to work in these fields but may be able to make a reference to another lawyer.

We do not handle divorce work. We are aware that Florida has moved closer to becoming a community property state and that Florida has recently adopted a version of a model marital agreement act. Therefore, anyone marrying later in life or for a second time should consider obtaining advice from a reputable divorce lawyer as a way to protect assets in the event of divorce or after death.

1. Review of Family. Have you made a review of your family and their needs in light of your incapacity or death?

2. Review of Assets. Have you made a review of your assets from the following perspectives: current value; tax implications; how title is held; how title will pass from yourself to those to whom you wish to give it; real property in another state?

3. Health Care.

3.1 Do you want to name someone to make informed medical decisions for you if you are not able to make them yourself? **Designation of Health Care Surrogate.**

3.2 Do you want to name someone to make informed end of life medical decisions for you if you are not able to make them yourself? **Living Will.**

3.3 Who are the people and what is their relationship to you?

3.4 Do you wish to donate organs should you die? **Driver's License. Organ Donor Card.**

4. Managing Property During Life.

4.1 Do you wish to name someone to manage your property while you are alive in the event that you are not able to do so?

4.2 Do you wish this person to be subject to the supervision of the guardianship court? **Declaration of Preneed Guardian.**

4.3 Alternatively, do you wish this person to operate privately under the terms of a statute and a planning document which is no longer effective at death? **Durable Power of Attorney.**

4.4 Alternatively, do you wish this person to operate privately under the terms of a statute and a planning document which is also effective after death? **Revocable Living Trust.**

4.5 Who is this person and what is their relationship to you?

5. Children.

5.1 Do you want to name someone to make informed medical decisions for your children if you are not able to make them yourself? **Designation of Health Care Surrogate for Minor Children.**

5.2 Do you want to name someone to raise your minor children if you are not able to do so yourself? **Declaration of Preneed Guardian.**

5.3 Do you want to name someone to manage property you may leave to your minor children? **Declaration of Preneed Guardian and Living Trust or Testamentary Trust or Custodian Under the Florida Transfers to Minors Act.**

5.4 Do you want to name someone to manage the property you may leave to your minor children after they reach the age of 18? **Revocable Living Trust or Testamentary Trust.**

6. Gift of Property After Death.

6.1 Do you wish to avoid the court probate system? **Joint ownership with right of survivorship. Beneficiary and transfer on death clauses in asset contracts. Revocable Living Trust.**

6.2 If yes, are you willing to accept the limitations and risks in avoiding probate?

6.3 Do you wish to make specific gifts of tangible personal property and be able to make changes in beneficiaries later without having to redo your will or trust? **Separate Writing referenced in Will or Revocable Living Trust.**

6.4 Do you wish to make specific gifts of property such as a cash gift to a religious body or charity? **Will or Revocable Living Trust or Testamentary Trust.**

6.5 Do you have a plan for gifts of the residue of your probate estate or trust? **Will or Revocable Living Trust or Testamentary Trust.**

6.6 Who should manage your probate estate or trust after your death? **Personal Representative in a Will or Trustee in a Revocable Living Trust or a Testamentary Trust.**

7. Taxes.

7.1 Do you have records of income tax returns which could be relied upon after your incapacity or death?

7.2 Do you have records establishing the cost basis for assets which could be subject to capital gains taxes if sold after your death?

7.3 Are you presently subject to estate taxes?

7.4 If yes, do you have a source of payment without liquidating probate estate or trust assets?

8. Records.

8.1 Do you have a written or stored summary of your personal records, including signed planning tools?

8.2 Do the key people in your life know where to find this summary and the records?

Notes: