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Advance Funeral Planning Makes Financial Sense

It's easy to understand how advance funeral planning can reduce the stress on surviving family members and provide peace of mind. It also makes good financial sense. Many people think of funeral planning as part of estate planning.

The benefits of pre-planning our own include: the ability to make personal and specific selections that most closely meets our needs; sparing loved ones from having to second guess our wishes; having the time to research funeral homes, burial options, and financial considerations. If we are pre-planning a funeral for a loved one, we can consider our selections when we are able to make fiscally responsible choices rather than emotional ones. It also spares loved ones the unexpected cost of a funeral during a stressful time and allows Medicaid/SSI recipients to preserve funds for their future funeral expenses, see below.

Many people choose not only to pre-plan a funeral, but to pre-fund it as well, either by paying the full amount up front or by arranging a

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A Lesson Learned at Prince's Expense

In the last issue of A Step Ahead, we discussed how David Bowie's failure to incorporate a trust in his estate plan opened his plan to public scrutiny. This month we lost Prince, another trend setting entertainer whose estate is going to occupy the media. Within days, the public was informed that Prince died "intestate," meaning he had *no* estate plan. For Prince's estate, the consequences are significant. Un-

less you have also amassed an estate worth more than \$300 million, the consequences of dying intestate would not be as extreme, but it's still worth a closer look.

Subject to certain exclusions, within 9 months of his death, Prince's estate must pay federal and state estate taxes totaling 56% of the value of his estate. Because Prince had no Will, he failed to designate the person who will be responsible for administering his estate. A number of his siblings have already filed court proceedings seeking that job. While they jockey (and argue) for position,

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Spring Cleaning – Time To Review and Renew

Tax season is over! Spring has FINALLY sprung! It's time to "review and renew." Each spring, we at Berwitz & DiTata LLP encourage our clients, friends and "would be" friends to focus on estate planning, refresh those resolutions and stop procrastinating. We call it our annual "Review and Renew" program.

If you have never created an estate plan, now is the time. Although estate planning is rarely a topic people look forward to addressing, we are dedicated to helping clients identify and implement their estate planning objectives with ease and efficiency.

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payment plan. This strategy places the cost of the funeral (at today's price) in an investment vehicle, earning interest to keep pace with inflation to cover the future cost of the funeral.

More than any other state, consumers in New York who pre-fund their funerals are protected by the strongest "Pre Need" laws in the nation and, with the exception of pre-planning for Medicaid and SSI eligibility, the funds in the Pre Need account belong to the purchaser. This allows us to change funeral homes or funeral arrangements at any time.

Monies for funeral pre-planning must be deposited, by the funeral home or pre-arrangement counselor, in a U.S. government-backed investment within 10 business days. In New York State, a funeral director cannot charge a consumer a fee for pre-arranging a funeral. The purchaser is notified of the institution

where the deposit is made within 30 days and, each year the purchaser is notified of account activity and interest earned. If a funeral home closes, account holders may transfer the funds in their Pre Need account to another funeral home.

Special provisions for Medicaid/SSI applicants or recipients:

Federal and state laws support the principle that all citizens are entitled to respect and dignity in their passing. For this reason, people who apply for governmental benefits are permitted to set funds aside for the sole purpose of paying for their own funeral/burial expenses or for the funeral/burial expenses of immediate family members including spouse, children, siblings, parents and the spouses of these individuals. The funeral/burial funds are considered "exempt," they are not counted as part of the individual's financial resources. New York State law requires that 100% of these funeral/burial funds be placed in an *irrevocable* Pre Need trust account to ensure that they will be available when needed and that they can be used for no other purpose.



A Lesson Learned at Prince's Expense

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the estate tax clock is ticking and no one has authority to manage all of the assets until the Court decides who is to be appointed. More importantly, how will the estate derive the cash to pay the estate tax bill? We have learned that the bulk of Prince's estate consists of real estate, his musical catalogue and future earnings from his likeness. The combined tax liability may top \$168 million. Prince's assets will undoubtedly have to be sold but, until the Court appoints someone to administer the estate, no one has the authority to begin that process or decide what gets sold and to whom. The tax liability is based upon the fair market value of the estate. There is no reduction in estate tax when the assets are sold at bargain basement rates because of the short time within which to complete a sale in order to raise the money to pay taxes!

Most of us do not have an estate large enough to incur an estate tax liability. Yet, failing to implement an estate plan can still cause unanticipated and unwanted consequences. Without a Will or trust, New York State will dictate to whom your estate will be distributed. Not surprisingly, most people do not agree with the way the state requires their estate to be distributed. The state does not specify who will serve as the administrator. The statute specifies only who is qualified to ask for this appointment. Thus, disagreements between family members about who is best suited to administer an estate can tear a family apart.

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All of these problems can be avoided by creating an estate plan. Whether a Will or trust is used to direct the disposition of property after a death, it allows you to specify who will be responsible for administering your assets, who will receive your assets and how they receive them - outright or in trust. This is particularly important if a beneficiary is a minor child, disabled or incapable of properly handling an inheritance.

All too often, it is easier to make excuses as to why it is inconvenient

to create an estate plan now. However, estate planning documents must be implemented while you are capable of understanding them. By the time you really need to have the documents in place, you may no longer be capable of creating them.

Benjamin Franklin said, "If you fail to plan, you are planning to fail." No more excuses. If you have not created an estate plan, now is the time to put it into place. If you have a plan but it has not been reviewed in 3 years or more, it is time to have it reviewed. Call us. We will be happy to help.



Spring Cleaning — Time To Review and Renew

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We believe that our success is founded on this fundamental commitment to communicate with our clients in a caring and responsive manner. Those who have met with us in a one-on-one consultation know that we believe that everyone can benefit from estate planning regardless of personal income or net worth. Everyone has concerns regarding the future. For instance: How can I avoid probate or the dissipation of my assets to estate taxes? How can I avoid losing control of my assets if I become disabled? How do I protect myself and my family from devastating nursing home costs? Can assets still be protected if a loved one is already in a nursing home? How can I protect my minor children? How can I protect my disabled child or the assets that he or she may one day inherit? In designing strategies to effectuate our clients' goals, we offer detailed advice and a high level of technical expertise. Now is

the time to achieve estate planning peace of mind! Ask those questions, explore the options, get it done.

If you created your estate plan, or reviewed it last, more than 3 years ago — now is the time. Are your documents up to date? Have there been changes in the law or in your life that should now be considered? The documents that address the needs of a single person are frequently insufficient when he or she marries. If a couple has children, the appointment of a guardian should be a key factor in estate planning. Those documents that were created when the kids were small may no longer reflect their parents' wishes now that the kids have grown and flown. Indeed, once your child reaches the age of 18, he or she should have a valid and enforceable Health Care Proxy empowering you or another to make health care decisions. The "sandwich gen-

eration" is discovering that the joy and responsibility of raising children is all too frequently overshadowed by the illness of parents. The need for estate planning takes on new meaning as one approaches retirement and, if illness threatens, timing becomes more critical. Lifetime changes affect estate planning. Even if you can't conceive that the changes in your life may have an impact on your estate planning documents, an estate planning review is a vital element to ensuring that your wishes will be accomplished.

Because Berwitz & DiTata LLP understands the importance of keeping the plan current, we offer our clients a unique value-added component: a complimentary three-year review. For those who have not yet retained our services, there is a nominal fee to review your plan. Let us help you realize your estate planning objectives.

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Mistakes and Misconceptions

Estate planning, whether simple or complex, requires careful attention to details which, if overlooked or misunderstood, can undermine the plan's effectiveness. We like to highlight common estate planning mistakes and misconceptions whenever we can.

Do Jointly Owned Accounts Pass to the Survivor?

Most people misunderstand joint accounts. Some believe that they can add the name of a loved one onto an account "for convenience purposes" without ramifications. They do not necessarily consider what will happen after they pass away. Others believe

that adding a joint account owner creates an account with a "right of survivorship," meaning that the account will pass, in its entirety, to the survivor at the death of the first owner. The bottom line is that you must carefully consider joint ownership to be sure that you know what type of account you are creating. In order for the account to pass to the survivor, the account opening documents, the documents on file at the bank, must specify that. If the account is not an account with right of survivorship, the ownership of the account may not pass to the other person upon your death and your wishes may not be carried out at the time of your death.

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