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Dearly Un-Departed

By Michael Stusser

He who dies with the most things may not win, but he sure will have happy kids. My parents recently dragged my sister and me into a meeting with a tax-avoidance specialist (a.k.a. estate planner) about death, taxes and that wonderful end paper affectionately known as the Last Will and Testament.

The necrotic roundtable turned out to be a surprisingly lively affair, with tangents on the best way to smother someone, how to

know when our folks are technically “incapacitated” (when they say so) and one particularly morbid conversation about what would happen should the entire family be kidnapped by terrorists. (We agreed to leave everything to my sister’s cat.)

Though more than 70 percent of Americans are without one, there are all sorts of reasons to have an estate plan. Aside from dividing the loot, documents can lay out the vital details of your afterlife, such as the outfit you’d like to be buried in, where the savings bonds are hidden and the exact location of your long-lost Uncle Albert. The best reason, though, is that in most states—including Washington—if you die without a will, you leave the feds to figure out what to do

with your life savings.

We're not the Rockefellers (and apparently they aren't, either), but my folks have done well for themselves, own a vacation home and, depending on how long they live—which, for the moment (and I say this happily) should be another decade or three—may be leaving a little something for the next generation. Morose as it may seem, Ma and Pa realize this kind of planning can't occur post-mortem.

The parental units introduced us to Eric X, a partner at a boutique law firm, though there were no candles, massages or flowers to be purchased, only a whopping hourly fee. A nice enough fellow

(given the subject matter), our attorney was patient, well-versed in the law, and (thank God) good at explaining legal jargon and acronyms. LLCs, grantor-retained annuities, GRITs, QTIPs, Crummey trusts? Generation-skipping trusts!? Seeing the blank looks on our faces, Eric grabbed an erasable pen and stated, “This is when I like to go to the white board.” Gotta love visual aids.

The flow chart looked right out of an NFL playbook—if the coach were the Grim Reaper and winning were measured in dollars and cents. Labeled “Moving Parts,” it illustrated how complicated it is to hide—strike that, transfer—various funds to marital, family, annuity and charitable trusts. The goal of much of this estate planning is to

make it easier to both shelter money from taxes, and be able to pay taxes once a family member “buys the farm,” without having to liquidate the farm.

Apparently, after a person dies, there’s a process called probate that’s annoying for everyone involved—with the exception of the deceased, who has his/her own red tape to deal with at the Pearly Gates. State probate courts oversee an estate’s distribution of assets. To eliminate the bureaucratic probate process, lawyers have devised a living trust, enabling the living to get down to the business of distributing the goods in a more timely manner. The particulars of our trusty trusts (trustees, assets and

beneficiaries) took up a good portion of the meeting, along with learning about some *serious* gifting loopholes the government's going to want to look into in the very near future if it plans to continue spending as wildly as it has been.

The biggest surprise was hearing how much money my parents have decided to leave to philanthropy. I'd like to say a smile broke over my face as I imagined the starving artists and orphans who'd benefit from my parent's generosity, but, truth be told, my mug wore more of a selfish grimace. I instantly began planning a legal challenge that would prove these gray-hairs were out of their minds, but if I lost at this early stage I might be left out of the piece of the pie I'm

currently in the running for. I'm just glad my folks aren't in the Leona Helmsley state of mind, whereby the pets get priority. (I love you people. Really.)

Some of the steps on the flow chart seemed obvious enough, including the balloon that moves all assets after one spouse dies to the surviving wife (they always live longer). Let's face it: The real action (and tax) doesn't kick in until Spouse No. 2 kicks the bucket.

Political opinions aside, the rich have gotten richer by finding ways to pass the bulk of the assets on to the next generation. (If you're really lucky—I am not—you get to be a trust-fund kid.) The federal estate tax rate is now

a flat 45 percent, so those who don't make plans give almost half to Uncle Sam. (Washington state's estate tax is a maximum of 19 percent, which, added to the fed tax, winds up averaging another 10 percent.) By creating a bypass trust, as much as \$4 million can be passed along estate-tax-free.

Now, I'm progressive, believe in taxes (though I'd prefer they build schools as opposed to bombs), and understand the government's desire to snag as much cash as possible when a person kicks off —up to a point: I'd like there to be a little left over for the kids.

Our family powwow was quite the wake-up call: No one likes to be unprepared, especially when a (dirt) nap is involved. Hell, if I

don't squander my own inheritance, maybe I'll even decide to be as philanthropic as my parents when the time comes. Either way, it's clearly time to start thinking about the inevitable—death and taxes—not to mention eating more fiber and drawing up a will of my own.

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