

# **Volunteer Leader Training Guide**

## **Estate Planning Basics**

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### **Introduction**

Your estate includes all property (real and personal) you own minus any debts. This is known as your net worth. If you own property, you need an estate plan. An estate plan is not a single document. It is an individualized plan based on your unique situations and circumstances and may include a will, a trust, life insurance or a change in method of property ownership. Your estate plan – or lack of one – determines who will inherit your property.

### **Target Audience**

- EHC leaders
- Adult audiences

### **Objectives**

Participants will:

- Learn general information about estate planning.
- Learn general information about wills and property ownership.
- Learn how to get started on an estate plan.

### **Handouts**

- What Is a Will? – FSHEC47
- Getting Started on an Estate Plan – FSHEC36

### **A Good Estate Plan**

Estate planning involves the accumulation, use and preservation of property as well as its disposal. Planning your estate means reviewing how you own property, determining estate plan objectives, coordinating your properties and developing a plan to transfer properties to your heirs or other beneficiaries. A good estate plan covers:

1. Estate Maker's Lifetime – Provide satisfactory income and security for self and family through such tasks as managing family income, achieving a good retirement program, making legal arrangements for the transfer of property and reducing death costs and taxes.

2. Immediately After Death – Provide funds to meet financial demands on the estate, such as cost of the last illness, funeral expenses, claims of creditors, administration of estate and estate taxes.
3. Family Adjustment Period – Provide security and income for surviving spouse and distribute property equitably among the children and other heirs.

## Property

One of the first steps in starting or reviewing an estate plan is to identify your current assets and debts.

- 1) **Assets and Debts:** You need to calculate your net worth. List the real and personal property you own. Real property is immovable. It includes land and things that are attached to it such as buildings, fences, minerals, etc. Personal property is movable. It is not attached to land. Personal property can be tangible such as cars, livestock or household goods, or it can be intangible such as stocks, bonds or insurance policies. Indicate the type of ownership and the realistic market value for each item. List all debts. You can determine your net worth by subtracting debts from the total value of your assets.
- 2) **Property Ownership:** The state of Arkansas recognizes four forms of property ownership – sole or individual ownership, tenancy in common, joint tenancy and tenancy by the entirety.
  - a) *Sole ownership* – You are the only person who owns all the interest in a piece of property. If your property has a beneficiary clause, the property will be distributed according to the contract. Life insurance and retirement accounts are examples of sole ownership property with beneficiary clauses. If you have not named beneficiaries but have a will, the property will be distributed according to your will. If you don't have a will and have not named beneficiaries, your property will be distributed according to the inheritance laws of Arkansas.
  - b) *Tenancy in common* exists when you and one or more persons hold an undivided interest in a piece of property without right of survivorship. If a deed or title does not state the form of co-ownership, the court usually assumes it is tenancy in common. Either tenant may give away or sell their interest in the property. Upon your death, your interest in the property will be transferred to the persons named in your will. If you do not have a will, your interest in the property will be distributed according to the inheritance laws of Arkansas. The property will pass through probate and will be subject to estate taxes.
  - c) *Joint tenancy with right of survivorship* exists when you and one or more persons hold an undivided interest in the same property with right of survivorship. Either tenant may give away or sell their interest in the property. Your joint tenant may or may not be your spouse. An example of joint tenancy is a bank account in your name and your spouse's or sister's name. Upon the death of a joint tenant, the property would automatically be transferred to the surviving joint tenant(s). Jointly owned property bypasses probate, and the surviving joint tenant is protected from the deceased joint tenant's creditors. The property cannot be transferred by a will.

- d) *Tenancy by the entirety* is limited to married couples. You and your spouse would have an undivided interest in real property with the right of survivorship except by the action of either one. You cannot dispose of your interest in real property without the consent of your spouse. When a tenant dies, the decedent's share is automatically transferred to the surviving spouse.

## What If There Is No Will?

When a person dies without a will, he dies "intestate" or without a testament of what he wants done with his property. The law of the state makes provision for distribution of property if there is no will. After expenses of administration, funeral, last illness, debts, taxes and family allowances, the remainder is divided as follows:

- *A married person leaving spouse and children* – One-third of the estate goes to the spouse and two-thirds to the children. The surviving spouse's one-third interest in real property is for life.
- *A married person with no children* – The surviving spouse receives all the property unless the couple was married less than three years, in which case one-half goes to the surviving spouse and the other half to the heirs of the deceased spouse.
- *A widow or widower with children* – The property is divided equally among the children. The children of a deceased child take that child's part.
- *Widow or widower or unmarried, no children or descendants* – The property is divided equally among the father and mother or all goes to the surviving parent. If there are no surviving parents, the property goes to brothers and sisters. Children of a predeceased brother or sister take his or her share.
- *Widow or widower or unmarried, no children or descendants, no parents, no brothers or sisters or descendants of deceased brothers or sisters* – The property goes to the surviving grandparents, uncles and aunts in equal shares. Descendants of deceased uncles or aunts take his or her share.
- *Widow or widower or unmarried, no children or descendants, no parents, no brothers or sisters or descendants of brothers or sisters, no grandparents, uncles or aunts* – The property goes to surviving great grandparents, great uncles or great aunts in equal shares. Descendants of deceased great uncles or great aunts take his or her share.
- *Married man or woman, no surviving relatives of any kind* – All property goes to the surviving spouse even if married less than three years.
- *Unmarried person with no surviving relatives of any kind* – All property goes to the state of Arkansas.

## Estate Plan Objectives

Estate plan objectives will vary from family to family due to differences in assets, marital status, values, age and number of dependents, lifestyles and state of the family life cycle. Beginning families place more emphasis on building an estate, while older families will stress

objectives related to retirement and the distribution of property that has been accumulated. Some common objectives include:

- Providing an adequate retirement income.
- Protecting minor children in case both parents die.
- Providing for the financial needs of survivors such as the spouse, children or other dependents.

**Handout:** See page 3 of the fact sheet “Getting Started on an Estate Plan” for more ideas and for help in determining your estate planning goals.

**Activity:** As you read each of the objectives, rate how important it is for your estate plan... whether it is very important, important, somewhat important or not important and check the appropriate column.

Estate planning goals will change over time. Changes in property ownership, marital status or dependents make it necessary to revise an estate plan.

## **Estate Planning Tools**

The four most commonly used estate planning tools that can be selected to achieve estate plan objectives are wills, trusts, life insurance and lifetime gifts.

- **Wills** – A will is a legal instrument or written document that tells others how you want your property transferred after death. It affects only the property that you own at the moment of your death (i.e., property solely owned, life insurance proceeds if your estate is the beneficiary of the policy and property held in tenancy-in-common). It is one of the most commonly used and best estate planning tools. If an individual does not have a will, then his or her property is distributed according to the descent and distribution laws of the state of Arkansas.
- **Trusts** – A trust is the most flexible estate planning tool. A trust is a legal arrangement whereby an interest in property, real or personal, is held by a person or an institution (the trustee) for the benefit of another person (the trust beneficiary). The trustee manages the property for the beneficiaries according to the trust agreement. The two principal types of trust are living trusts (inter vivos) and testamentary trusts. A living trust is one that you set up during your lifetime, while the testamentary trust is one created by your will and does not take effect until your death.
- **Life Insurance** – Life insurance is a useful tool in estate planning. It can provide ready cash to pay debts, cover taxes and meet living expenses for dependents while an estate is being settled. The two basic types of insurance are term, which offers protection only, and whole life, which combines protection with a savings plan. Generally, other life insurance policies are combinations of term and permanent life insurance.
- **Gifts** – Lifetime gift giving can be used to reduce both estate tax and income tax liability. You can transfer large amounts of property tax-free to your relatives and/or friends by using the annual gift tax exemption, marital deduction and gift splitting by spouses.

- **Other Tools** – Other estate planning tools that can be used to build an estate plan are annuities, stocks and bonds, social security and other retirement benefits and ownership of property. Regardless of the number of different estate planning tools in your estate plan, they need to be coordinated with one another.

## Professional Advisors

Getting financial help is a little like building a house. Most often, it takes a whole team of people to get the job done – plumber, electrician, carpenter, carpet layer, roofer and more. To get your financial house in order also takes a team of professionals – banker, tax preparer, attorney, insurance agent, employee benefit counselor at your place of work, stock broker and financial planner. You need to know when to use which professional, if at all, and for what purpose.

Seeking financial advice is like seeing a physician for your health. Just as most people need an annual physical exam, at least an annual review of your financial situation, including your investment portfolio, is a good idea. When the markets are showing extreme volatility or you have a significant change in life circumstances (e.g., birth of a child, divorce, severe illness or disability or death of a spouse), more frequent assessment of your investments is recommended. Just as you call on a physician when you have a particular need, you may also need a financial advisor to help with such issues as tax preparation, buying insurance to protect against catastrophic loss of property or drawing up a will or trust.

When and how often you seek financial advice really depends on the complexity of your financial situation. The bottom line is that having someone to call at the right time, for the right purpose, who is familiar with your situation and can lead you to an informed decision is invaluable.

- **Lawyers** can help you with certain legal implications of your estate plan such as wills, trusts and powers of attorney. Some lawyers are also certified financial planners. Choose a lawyer who has the expertise you need (e.g., real estate, family law, estate planning).
- **Life insurance agents** can sell you insurance products (e.g., annuities, whole life insurance, universal life) that have an investment component. Most life insurance agents are trained by the company whose products they sell and may not be knowledgeable about all investment options available to you. Some also may have additional training through the insurance industry and have earned the CLU (Chartered Life Underwriter) designation.
- **Estate planners** can help with a strategy for management of your assets at the time of your death. Many estate planners hold the AEP (Accredited Estate Planner) designation, but they are not qualified to prepare legal documents such as wills, trusts and powers of attorney. Only a lawyer is qualified for that.
- **Financial planners** consider your total financial situation to develop a comprehensive plan. This involves taking a “snapshot” of where you are now via a net worth statement, identifying where you want to be financially (e.g, buying a house, financing a child’s college education, living comfortably in retirement) and developing recommendations to help close the gap between what you have now and what you need to meet your life’s goals. Financial planners look at meeting short- and long-term financial goals and

managing risk with insurance, investments, tax planning, retirement planning and estate planning. Making decisions about one area, such as saving for retirement, has implications for other areas, such as tax planning and investment choices. Working with someone who can give you the complete picture and can call on specialized experts (e.g., lawyers, accountants) when needed has its advantages for some people.

## **Choosing Your Team of Financial Professionals**

Here's a six-step process that can help find the financial professional that is best for you.

### **STEP 1. Get some names.**

You can check the yellow pages of your phone book, but a better idea is to work from referrals. Ask your friends, work colleagues and family members for their recommendations. You also can contact professional organizations for names of professionals practicing in your area. To do this, call toll-free or check their Web sites.

- **Financial Planning Association (FPA)**, 1-800-282-PLAN or 1-888-806-PLAN or [www.fpanet.org](http://www.fpanet.org)
- **National Association of Personal Financial Advisors**, 1-888-FEE-ONLY or [www.napfa.org](http://www.napfa.org)
- **American Institute of Certified Public Accountants**, Personal Financial Planning Division, 1-800-862-4272 or [www.aicpa.org/](http://www.aicpa.org/)
- **Society of Financial Service Professionals**, 1-800-392-6900 or [www.financialpro.org](http://www.financialpro.org)

### **STEP 2. Make some calls.**

Ask to have information sent to you in writing, including the names of a couple of satisfied clients. You can get a good feel for how a financial professional will work with you by the way that person treats you on the phone and through the mail. Pay special attention to the financial professionals' credentials. Make sure the professional is licensed.

### **STEP 3. Check out references.**

Call the references provided by the professional. Ask how long they have been a client and how satisfied they are with the services provided by the professional.

**STEP 4. Set up a face-to-face meeting and ask some questions.** Here are some questions you might ask:

1. How long have you been an estate planner (financial planner, attorney, etc.)? What other related experience do you have?
2. What are your professional credentials and affiliations?
3. How will we work together (e.g., by phone, electronically, in person) and how frequently?
4. What services do you offer?

5. What can I expect from you?
6. What will it cost and how are you paid?
7. Who will work with me (e.g., the person you are interviewing or a business associate)?
8. May I see a sample financial plan?
9. Are you registered with state or federal regulators?

**STEP 5. Ask yourself, “Do I feel comfortable with this person?”**

Working with a financial professional requires a relationship of mutual trust and respect. You must feel the financial professional has your best interests in mind and will be responsive to your needs. You must feel completely confident that this person will treat your situation with strictest confidence and act in a professional manner at all times. You must feel that this professional relationship will leave you better off than before.

**STEP 6. Make the decision.**

Ask for a written agreement that details the services to be provided. Keep up your end of the relationship by providing prompt and accurate information about your current financial situation, your short- and long-term financial goals and your estate planning objectives.

**Designing Your Estate Plan** – Here are several items to consider when planning your estate.

- Identify heirs or beneficiaries.
- Match tools to objectives.
- Choose the best method of ownership.
  - Sole ownership
  - Tenancy in common
  - Tenancy with right of survivorship
- Determine the best use of assets.
- Plan for disposal of property.
- Check property titles.

**Conclusion**

An estate plan is part of your larger and ever-changing financial picture. It is a pattern or a guide for working toward financial security and your family’s future. Steps include deciding what you want to achieve, finding out your net worth, selecting competent advisors, arranging the best use and plan for disposal of your assets and reviewing the plan periodically to keep it up to date.