Easy Estate Planning

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Six Levels of Estate Planners

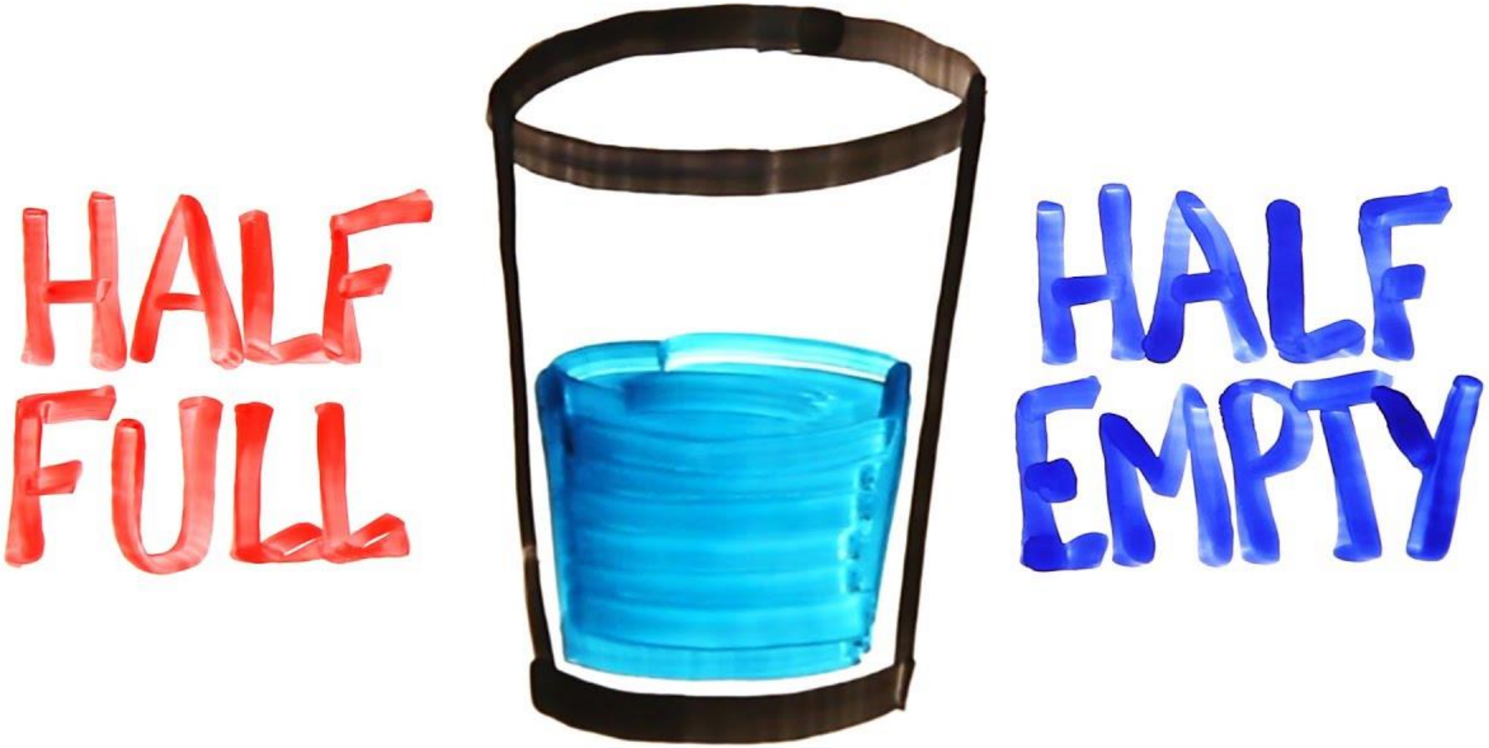
- **Level 1** – A person prepares their own "Death Napkin"
- **Level 2** – Internet Solutions from LegalZoom, Rocket Lawyer, Quicken Wills, etc.
- **Level 3** – Attorney with a General Practice
- **Level 4** – Attorney with a dedicated Estate Planning & Elder Law Practice
- **Level 5** – Attorney with a strong Tax, Business Law, and Estate Planning & Elder Law Practice
- **Level 6** – A Village of Attorneys working on the Estate Plans of Warren Buffet, Bill Gates, Jeff Bezos, etc.

Purpose of Easy Estate Planning?

- Reflect & Protect
- Values & Valuables
- Health & Wealth

- Self (Body)
- Estate (Property)

What is Easy Estate Planning?



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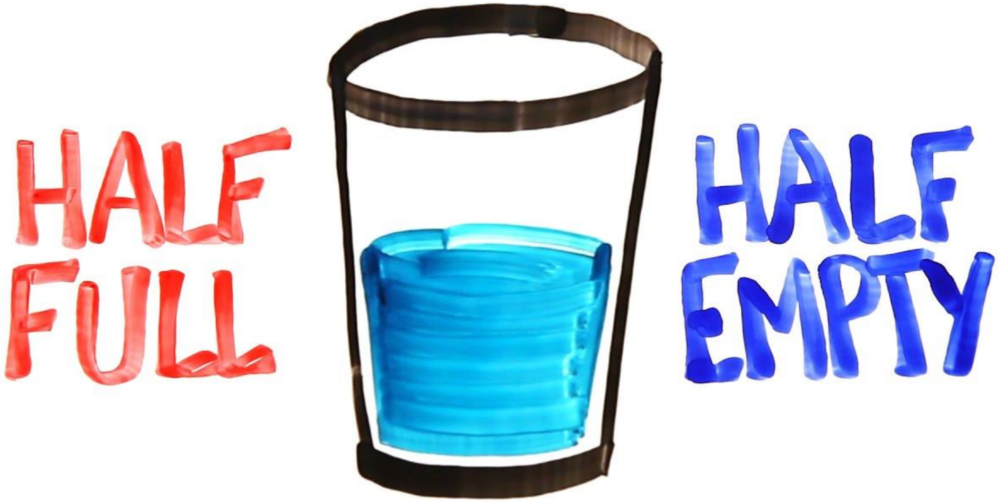


- Optimist – Half Full
- Pessimist – Half Empty
- IRS – Half Ours

What is Easy Estate Planning?

Old-Fashioned Easy Estate Planning

- Die owing the Undertaker
- Leave enough to your Children so they can do something, but not enough so they can do nothing
- Protect the Family Business, Farm, Nest Egg

BUT NOT Easy to Pay Estate Tax within 9 Months of Death

- Tax Avoidance
- Tax Deferral
- Tax Evasion (Not Recommended – ask Al Capone)

How Keep Estate Planning Easy?

NOT Easy Estate Planning When …..

- People are Living Longer
- Costs of Medical Care is Increasing
  - More treatment options available
  - More help is needed as you age
  - Less assistance from family members
- Protection of Family Business, Farm or Nest Egg only important for Very Wealthy

How Keep Estate Planning Easy?

Funding Options can include:

- Medicare
- Medicaid
- Veterans Benefits
- Social Security Disability (before retirement)

- Supplemental Needs Trust (aka Special Needs Trust)
- Traditional Revocable Living Trust with SNT provisions

What is Easy Estate Planning?

- Taking care of your **HEALTH** (Body)

- Taking care of your **WEALTH** (Property)

- Discovering how to **PAY** for all this care

Lessons from OK Governor's Office

- Let someone else do the work
- Let someone else pay for it

Why Should CPAs Care?

- Person may only meet 3-4 lawyers during their lifetime - usually during stressful or unpleasant circumstances
- *Please - no Thanos jokes about using the Infinity Stones to snap your fingers and make half the lawyers disappear*
- CPAs are **THE** Trusted Financial Advisor for many people
  - Better understanding of the numbers than **MANY** lawyers
  - Given a glimpse into the checkbook
  - Aware of retirement resources
  - Aware of insurance (health, life, property)

Why Should CPAs Care?

- Since 1995, the number of people aged 65 & over filing bankruptcy has tripled
- One of the fastest growing segments of people filing bankruptcy are widows
- One-half of 65-year-olds do not have **ANY** retirement funds
- 10,000 people per day turn 65 years old
  aka **the Silver Tsunami**
- A growing number of people do not have any family or friends to take care of them as they age
  aka **Elder Orphans**

Why Should CPAs Care?

- You may know **WHAT** you are doing
- But do you know **WHY** you are doing it?

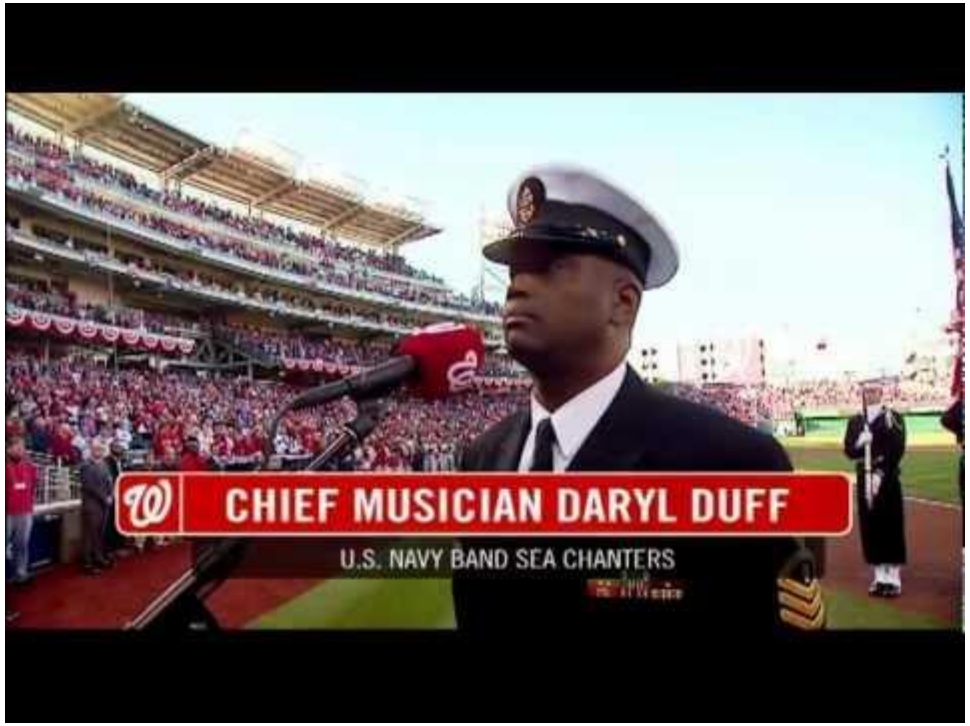
- Do you ever feel like a **FIREFIGHTER** with a moonlighting job as a **JANITOR**?

- If you know your **WHY**, then your **WHAT** is more impactful because you are walking in or towards your **PURPOSE**

MICHAEL JR.

Chief Musician E. Daryl Duff

- US Navy Band & Sea Chanters
- Sings the National Anthem https://youtu.be/5paOdhni3yg



Why Should CPAs Care?

Why Should CPAs Care?

Easy Estate Planning Grid

	Before Death	After Death
Health		
Wealth		

Before Your Death - Health

Basic Documents to Manage Your HEALTH Include:

- Medical Durable Power of Attorney (Immediate)
- Oklahoma Advanced Directive for Health Care (Statutory) aka "Living Will"
- HIPAA Authorization
- Do-Not-Resuscitate Order (Optional)

Before Your Death - Health

Primarily concerned with 2 levels of care

- Maintenance Care (MDPOA)
  - Schedule appointments
  - Check on lab work
  - Refill prescriptions
- Hospice Care (OK ADHC)

- Tension between Federal & State law

Before Your Death - Health

Advance Directive for Health Care (Living Will)

- Very Common; Easy to Download (Statutory Form)
- Limited Scope
  - Terminally Ill, Persistently Unconscious, End-Stage Condition
- Easily Executed in front of 2 Witnesses
  Notary Public not required
  - 18+ years old
  - Not related (heirs-at-law)
  - Shall not inherit

Before Your Death - Health

Advance Directive for Health Care (Living Will)

- Anatomical Gifts ???
  Use State-Issued ID instead

- WHAT IF Suffer from Dementia for 14 years?
  ADHC not viable

Before Your Death - Health

Medical Durable Power of Attorney

- Super Size Me!!!
- Broader Scope
  - Schedule appointments
  - Check on lab work
  - Refill prescriptions
  - Can overlap ADHC – can also include hospice care
- Now (immediate) vs. Later (springing – what is the trigger?)

Before Your Death - Health

Health Care Proxy – The "G" List

- Geographically Close
- Gray – can process incomplete information
- Guilt – not blame themselves for "Killing Mama"
- Guts – when the time comes, can they really do it?
- The General – someone that is even-tempered, diplomatic

Committees are NOT recommended!!!

Before Your Death - Health

Health Care Proxy – Tips & Tricks

- Don't keep in the Safe Deposit Box !!! Shiny Envelope ???
- Recommend 3 People
  - Get their Name and Address used on Driver's License
  - Get their mobile telephone number
- OK ADHC is the easiest/cheapest forms to update
  Keep them current!
- Don't owe them money! (They'll keep you plugged in)
- Don't loan them money! (They'll unplug you)

Before Your Death – Health

HIPAA Authorization Form

- Persons able to receive personal health
- Became a "Thing" during the AIDS epidemic
- Effective for 2 years after death
- May be needed for medical malpractice

Easy Estate Planning Grid

	Before Death	After Death
Health	1. Medical Durable POA 2. Oklahoma Advance Directive for Health Care (Living Will) 3. HIPPA 4. DNR (Optional)	
Wealth		

After Your Death - Health

NOT A LEGAL PROBLEM

- Dispose of your remains
  - Cremated
  - Buried
- Type of Service – Funeral, Celebration of Life, Graveside
- Meal Served
- Music
- Who is invited and not invited

Easy Estate Planning Grid

	Before Death	After Death
Health	1. Medical Durable POA 2. Oklahoma Advance Directive for Health Care (Living Will) 3. HIPPA 4. DNR (Optional)	NOT A LEGAL ISSUE 1. Disposal of Remains 2. Type of Service
Wealth		

Wealth

Primarily concerned with 2 time periods

- BEFORE date of death (DOD)
  - Assistance is IMMEDIATE
  - Assistance is SPRINGING – Triggered by an event
- AFTER date of death (DOD)
  - With Court supervision
  - Without Court supervision

Before Your Death - Wealth

Basic Documents to Manage Your ESTATE Include:

- Power-of-Attorney(Statutory and Non-Statutory)
  - General vs. Specific
  - Durable
- Transfer-on-Death Deed – Great Idea for Small Estates !!!
- Pay-on-Death (POD) accounts – typically banks
- Transfer-on-Death (TOD) accounts – other than banks
- Retirements Accounts (IRA, 401K, etc.)
  Primary & Contingent Beneficiaries

Before Your Death - Wealth

From NOW to DATE OF DEATH – Recommend POAs

- Principal – the "maker" of the document
- "Agent" or "Attorney-in-Fact" – the substitute signer
  - Financially responsible
  - Time available to actively manage estate of Principal
  - Not in financial distress
- Geographic proximity of Agent – not as important due to email, smartphones, online banking, etc.

Before Your Death - Wealth

From NOW to DATE OF DEATH – Recommend POAs

- Must be DURABLE
- Now (immediate) vs. Later (springing – what is the trigger?)
- Does the ASSET require "PAPERWORK"?
  - Real estate – Deeds
  - Bank accounts – Signature cards
  - Motor vehicles – Titles
- All POAs automatically REVOKED by death of Principal
- Is this **"STATUTORY FORGERY"**? NEED A **TITLE** !!!

Before Your Death - Wealth

From NOW to DATE OF DEATH - Guardianship

- Necessary if don't have POAs and become incapacitated
- Expensive
- Court-Monitored (Annual Report)
- Death makes Guardianship irrelevant
- Not recommended unless family not able to cooperate

Before Your Death - Wealth

Informal Solutions Can End in Disaster

- Child's name on bank account
  - IRS can levy the bank account
- Child's name on deed to homestead
  - Asset may not be exempt from bankruptcy creditors
- Medicaid & VA "look-back" periods
  - Inclusion of asset may delay receipt of benefits
- Lack of POA may require more expensive Guardianship
  - Sign income tax returns? Bankruptcy petitions?

Easy Estate Planning Grid

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Health	1. Medical Durable POA 2. Oklahoma Advance Directive for Health Care (Living Will) 3. HIPPA 4. DNR (Optional)	NOT A LEGAL ISSUE 1. Disposal of Remains 2. Type of Service
Wealth	1. Financial Durable POA 2. Guardianship (If necessary)	

After Your Death - Wealth

From DATE OF DEATH to $$$ Runs Out – Recommend Will

- 2015 Survey – 64% of people do not have a Will
- Prince - $200 million estate
  2 years after death and still no payout to his HEIRS
- Aretha Franklin - $80 million estate
  Clarence (son) has special needs

After Your Death – Wealth

WILLS – Your Letter to the Judge

- The "Death Napkin" (Holographic Will)
- Simple Will
- Pour-Over Will – use with a Trust
- Will that creates a Trust (Testamentary Trust)

After Your Death – Wealth

From DATE OF DEATH to $$$ Runs Out – Will

- Testator (Male) and Testatrix (Female)
  Owner of the Estate
- Executor (Male), Executrix (Female), Administrator, or Personal Representative
  - May be nominated in the Will, But appointed by the Court
  - Geographically close
  - Time available to administer
  - Respected by other HEIRS (**Trick question:** Who are your HEIRS?)

After Your Death – Wealth

Basic Probate Process

- Marshal all the assets (identify, secure, protect, insure, value, etc.) ← 1st Problem with Estate of Prince
- Pay the King (Federal and State taxes)
- Pay the Friends of the King (Creditors)
- Leftovers are distributed to the HEIRS ← 2nd Problem
- Probate process resembles a "mini" bankruptcy
- If "Intestate" (no will), then use the State's formula
- Is this **"COURT-MONITORED FORGERY"**?

After Your Death – Wealth

Probate "GOTCHAs"

- Loss of Privacy – must provide inventory of ESTATE
- Costs involved (legal fees, accounting fees, filing fees, publications, commissions, appraisals, etc.)
- Time involved (creditors' claims, sale of real estate, etc.)
- Surviving spouse can "elect" against the will
- Will cannot supersede or replace a Prenuptial Agreement

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Wealth	1. Financial Durable POA 2. Guardianship (Extreme Situation)	1. Probate (With or Without a Will)

Before and After Your Death – Wealth

Trusts

- Types of Trust
  - Revocable (Most Common)
  - Irrevocable
  - Supplemental / Special Needs
  - Special Purpose i.e., Gun Trusts
- Additional Documents
  - Assignment of Tangible Personal Property
  - Quick Claim Deed (QCD) for real estate
  - Personal Property Memorandum
  - Memorandum of Trust

Before and After Your Death – Wealth

From NOW to $$$ Runs Out – Recommend Trust

- Trustor, Grantor, Settlor, Trust Maker
  Owner of the ESTATE
  Ultimate control of trust – can revoke, amend or restate
- Trustee
  Manager of the ESTATE
- Beneficiary
  Party Animal – Enjoys the ESTATE!!!

The "Bundle of Rights" are separated into 3 parts

Before and After Your Death – Wealth

From NOW to $$$ Runs Out – Recommend Trust

- Successor Trustee
  - Very Critical Decision
  - Disability or Incapacity of Initial Trustee
  - Inconvenient for Initial Trustee
  - Individual(s) or Corporate?
  - Trust Committee?

DANGER!!! Successor Trustee = Special Needs Beneficiary?

Before and After Your Death – Wealth

From NOW to $$$ Runs Out – Recommend Trust

Successor Trustee recommendations:

- Geographic proximity not required
- Financially responsible
- Financially competent – a really nice person?
- Time available to administer
- Respected by Beneficiaries or Trust Committee
- Not currently in financial distress

Before and After Your Death – Wealth

From NOW to $$$ Runs Out – Recommend Trust

- Distribution of Income and Principal
  - During lifetime of ESTATE Owner
  - After lifetime of ESTATE Owner
- Health, Education, Maintenance & Support (HEMS)
  - Spouse
  - Children – Age? Addictions (UA)? Needs? Spendthrift?
    - Immediate
    - Stair-step – 1/3 @ age 25 or 5th anniversary, 1/2 @ age 35 or 10th anniversary, All @ age 45 or 15th anniversary

Before and After Your Death – Wealth

Trust "ATTA-BOYs"

- Maximizes privacy of ESTATE Owner
- Management can be quick and efficient before & after death of ESTATE Owner
- Asset protection for Successor Beneficiaries
- ESTATE Owner can control to whom, when and under what circumstances distributions are made
- Is this **"CONTRACTUAL FORGERY"**?

DANGER!!! 3rd Party oversight is limited

Before and After Your Death – Wealth

Trust Protector

- Carries out ADMINISTRATIVE or STRATEGIC Purposes not reserved to the TRUSTEE
- Limited use started in the 1980's
- Fiduciary vs. Non-Fiduciary
- Appoint Trustees if Grantor's list is exhausted
- Modify Trust if Tax Laws Change

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