

### This Quarter's Highlights

- Creating a Financial Organizer
- Wills and Trusts
- Health Care Directives, Powers of Attorney, and Beneficiary Designations
- Digital Passwords

## KANAWHA CURRENTS

### Prepare for the future by organizing now

Perhaps the greatest favor that you can do for yourself and your family is getting your financial matters organized. The concept of “getting your financial house in order” can mean different things to different people. For some, the goal of cleaning up your financial life is to better manage your finances now — rather than having your finances manage you. For others, it implies preparing for a time when you are no longer here or in control of your finances.

*“It is important that you address these needs sooner rather than later. Doing so can provide you with peace of mind and foster a healthy environment to manage your finances going forward.”*

Whichever focus you choose, the objective should really be twofold: 1) provide for a smooth transition of assets and responsibility to your survivors; and 2) make it easier for you to manage your finances during your lifetime. By doing one, you will be doing both.

Individuals who are organized and up-to-date with their financial affairs tend to be more successful in achieving their financial goals. Those who lack focus or choose not to stay current with their financial plans often fall behind in accomplishing their objectives and are more prone to leaving their survivors in a difficult position after their death or incapacity.

#### **Your Financial Information Organizer:**

One of the most practical ways to help you manage your finances during your lifetime and allow for an easier transition after you are gone is by creating a financial information organizer. Having all of your important documents in one convenient location can make it easy to monitor your affairs and make necessary changes as circumstances evolve. Of course, this information should be kept in a secure location that reduces the chance of

loss due to theft or property damage. Some individuals prefer to maintain digital files of their financial documents rather than paper records. If you choose to store these documents electronically, be sure they are properly protected and backed up to a secondary source. Below is a checklist of items that should be completed and added to your financial book.

## Items to Include in Your Financial Organizer:

- Wills
- Trusts
- Health Care Directives
- Powers of Attorney
- Guardianships for Children
- Real Estate Titles
- Beneficiary Designations for Retirement Accounts, TOD Accounts, and Life Insurance Policies
- Safety Deposit Box Instructions and Key
- Recent Income and Gift Tax Returns
- List of Bank and Brokerage Accounts
- Life, Disability, Medical, Home, Auto, Liability and Other Insurance Policies
- Social Security Benefit Statements
- Budgets
- Professional Advisor Contact Information (Investment Advisor, Attorney, Tax Accountant, Insurance Agent, etc.)
- Birth and Marriage Certificates
- Basic Utility Services Account Information
- Digital Usernames and Passwords

While certain individuals will have unique needs that may require additions to this list, these items should serve as a good foundation for your plan. Below is a brief discussion of several of these important items.

### **Will:**

Your will provides final instructions for determining how your probate assets will be transferred at death. Any assets you own that are not held in trust or joint tenancy or are not due to pass via a named beneficiary (i.e. retirement account) will generally pass through probate and be transferred according to the instructions in your will. Your will should also name an executor who will serve as your personal representative in settling your estate. It should be reviewed and updated periodically or as circumstances change.

### **Trust:**

Trusts may be established for any number of reasons, which can include: passing assets to multiple beneficiaries, managing assets in case the grantor becomes incapacitated, protecting beneficiaries from themselves or other creditors, avoiding probate, and avoiding or reducing estate taxes. Trusts generally involve a Grantor (also called a Trustor or Settlor) who creates and funds the trust, a Trustee who has legal title and control of the property, and a Beneficiary who has a financial interest in the trust property. Trusts often provide a greater degree of flexibility and control compared to a will. Recent legislation has increased the lifetime estate tax exemption amount and also introduced portability of the exemption between spouses. Depending on the language in your trust, these changes may have rendered your documents ineffective in dealing with current law, especially as it relates to taking advantage of new portability rules. Consequently, even if your assets fall well under the current estate tax exemption of \$5,340,000, it makes sense to review the language in your documents with your trust and estate attorney.

Naming a trustee and/or successor trustee is an important step in establishing a trust. Often with living trusts, the grantor names herself trustee and another individual successor trustee to manage the trust after she dies. Identifying multiple successor trustees reduces

the risk of a trust being left without a person in control in the event a named successor trustee predeceases the current trustee. It may also be worthwhile to pursue naming an institution as a co-trustee or co-successor trustee to further reduce this risk.

**Health Care Directive:**

A Living Will provides written instructions for doctors and other healthcare providers in the event you become terminally ill or need life-sustaining treatment (i.e., in what situations you want to “pull the plug”). A Power of Attorney for Health Care names a trusted individual to make health care decisions in the event you become incapacitated. The legal names of these documents may vary depending on your state of residence.

**Power of Attorney:**

A Durable Power of Attorney identifies an individual (commonly referred to as an agent) who will make financial decisions for you in the event you become incapacitated. Certain responsibilities that may be granted to your agent include making investment decisions, paying bills, granting gifts, and filing tax returns. One should take the time to consider a person who has adequate knowledge and experience to fulfill such duties responsibly. Similar to naming multiple successor trustees, it may be prudent to identify more than one agent in your power of attorney instructions.

**Guardianship:**

Parents with minor children should name a Guardian in their wills who will care for the minors in the event of death or incapacity. Not doing so could place family members in the difficult position of determining who is best suited to care for the children. It could also leave the children and family vulnerable to a court order in naming guardians.

**Titling Assets:**

It is important that you title your assets consistent with the intentions of your estate plan. For example, if your attorney creates a Revocable Living Trust as part of your plan, you may need to retitle your non-retirement investment accounts in the name of the trust. For jointly owned assets, make sure you know whether Joint Tenancy with Rights of Survivorship or

Tenants in Common is appropriate. If your intent is to have your share of the assets flow to the joint owner, then Rights of Survivorship may be appropriate. On the other hand, if you plan to have the assets flow through your estate via your will, then Tenants in Common should be suitable.

**Beneficiary Designations:**

For many people, a significant amount of their net worth is tied up in retirement accounts, Transfer on Death accounts, and life insurance policies that will ultimately transfer to survivors via named beneficiaries. It is imperative to keep your beneficiary designations up to date and make sure that you have assigned both primary and contingent beneficiaries. It is common for spouses to name each other as primary beneficiaries and then children as contingent beneficiaries. For retirement accounts, the IRS offers spouses the ability to use more friendly distribution rules compared to non-spouse beneficiaries such as trusts for Required Minimum Distribution (RMD) purposes. Those with young children, however, may want to name their spouse as primary beneficiary and a trust as contingent beneficiary in lieu of the minor children. Naming trusts as IRA beneficiaries can be a viable strategy under certain situations, but IRA distribution and tax rules should be taken into consideration beforehand. You should always consult with your trust and estate attorney to confirm that your beneficiary designations are consistent with your broader estate planning objectives. Naming beneficiaries for your retirement accounts and life insurance policies is a critical part of your plan and should not be taken lightly. As circumstances change, whether through divorce or death of a spouse, or simply from children becoming adults, it makes sense to review your beneficiary designations periodically.

**Safety Deposit Box:**

For many, a bank safety deposit box has always been the preferred location to store important information. This can dramatically reduce the risk of loss due to theft, misplacement, or property damage. Documents such as real estate deeds, life insurance policies, wills, trusts, stock certificates, family heirlooms, and marriage and birth certificates are items typically placed in a safety deposit box. Note that it may make

sense to keep a copy of certain documents, such as your will, in a safe location that is more accessible than a bank in the event of your death. This could help your survivors avoid delays in accessing your important documents in the event the executor does not have the power to access your safety deposit box immediately. Having a co-renter of your safe box can also avoid delays in the event of your death. A person that you have assigned power of attorney can generally access your safety deposit box during your lifetime, but this will change at your death as your executor would be granted this control to access your safety deposit box. A private lock box may be a valid alternative to a bank safety deposit box, but certain risks such as loss from theft or property damage may still be elevated when compared to a bank safety deposit box.

#### **Tax Returns:**

Generally, the IRS advises taxpayers to keep tax returns and supporting documents for three years beyond the filed date. However, there are situations where the statute of limitations for an IRS audit can be extended beyond three years. For example, if you have under-reported income by 25% or more, the IRS can go back six years. This can be extended to seven years if you claim a loss for a bad debt or worthless security. If you fail to file, or file a fraudulent return, there is no statute of limitations. If you are an employer, you should keep any employment tax records for at least four years. Of course, for securities, real estate, and other property that has been acquired through purchase, gifting, or inheritance, detailed records should be kept to justify your date and price of acquisition. Supporting documents for such assets should be maintained until the disposition date plus three years. A good rule of thumb is to maintain records for any tax benefits, such as capital-loss carry forwards, through the year in which the benefit ends plus three years. For retirement accounts, records should be maintained to determine any nondeductible contribution amounts. If there is any question about how long you should keep records pertaining to a certain transaction, consult with your tax preparer. Note that state tax laws may vary from the Federal IRS guidelines.

#### **Digital Passwords:**

Increasingly, individuals are getting more comfortable accessing their financial information over the internet. Access is typically granted through usernames and passwords. Often, these passwords must contain a combination of letters, numbers, and symbols. Additionally, some service providers require you to update your passwords periodically or access may be denied. As your list of sensitive online sign-in words begins to expand, you may find them challenging to remember. Storing them, either electronically or on paper, is the only way to realistically manage and retrieve a growing number of passwords. Not only is it important for you as the current user, but it may be even more critical for the agent you have granted access and control in the event you become incapacitated. For those with online bill pay, it can be helpful for your named agent to become familiar with how to gain access to pay your bills in a timely matter should the need arise. There are a growing number of cloud-based digital providers who offer password managers. The same is true for native software applications, which may allow you to save and quickly recall your passwords on your smartphone, tablet, or computer.

#### **Conclusion:**

Taking the necessary steps to better organize your overall financial picture should provide for a smooth transition for your loved ones after you die or become disabled. These efforts should also make it easier for you to manage your financial affairs during your lifetime. Whether you have to update your trusts to account for changes in estate law, add a document to your safety deposit box, or simply pull all of the different pieces together in a financial information organizer, it is important that you address these needs sooner rather than later. Doing so can provide you with peace of mind and foster a healthy environment to manage your finances going forward.

This is intended to be for informational purposes only and should not be interpreted as advice. Consult your trust and estate attorney as well as tax professional for advice regarding your specific circumstances.