

## **WHAT IS ESTATE PLANNING?**

Estate Planning is your set of legally binding documents declaring: 1) who you want to make financial and medical decisions for you should you need it during your lifetime; 2) who is to receive your property upon your death; and, 3) who you want to wind-up your financial affairs and distribute your property to your chosen beneficiaries after your death. A well prepared estate plan also helps to reduce the amount your estate may lose to taxes, court fees and other expenses.

## **HOW DO I PREPARE MY ESTATE PLAN?**

Call Ms. Plemmons for a free 30 minute consultation. After meeting with you to discuss who you choose to handle your affairs and receive your property, she will prepare the documents for you to meet your estate planning goals.

The primary estate planning documents for use during your lifetime are: Health Care Power of Attorney; Advanced Care Plan or Living Will; Durable Power of Attorney for Financial Transactions; and Revocable Trust. The primary estate planning documents to finalize your financial affairs after your death are: Last Will and Testament; or, a Revocable Trust which becomes irrevocable upon your death.

To be effective, these estate planning documents must be prepared according to state law. Estate planning is one area of the law in which legal technicalities really do matter. Simply signing the documents incorrectly can void the entire document, rendering it ineffective and unenforceable.

Drafting estate planning documents requires the professional skill and experience of a licensed attorney who devotes a majority of her professional time to this complex area of law. Trusting your estate

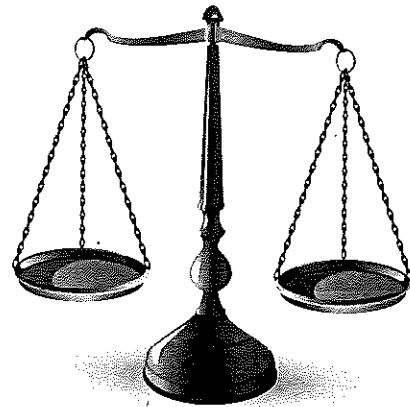
planning to a novice, documents from the internet, or a sales campaign marketing "Living Trusts" is not recommended. Simple mistakes and inadequate planning can cost you or your family thousands of dollars or, result in your property passing to someone whom you never selected as a beneficiary.

## **WHY DO I NEED A WILL OR REVOCABLE TRUST?**

You have a right to decide who will receive the gift of your property and the right to select who you want to finalize your financial affairs after you pass away. A Will or Revocable Trust are two different methods to accomplish these very important personal goals.

## **WHAT HAPPENS IF I DON'T HAVE A WILL OR A REVOCABLE TRUST?**

Tennessee Law determines who receives your property and prioritizes who has the "right" to be in charge of finalizing your estate if you do not have a Will or Revocable Trust. Furthermore, state law cannot and does not adequately provide for distribution of your property if you have a "blended family" and oftentimes, the distribution required by state law in "traditional families" is not what you would have chosen had you made your wishes known.



## **WHAT IS A REVOCABLE TRUST?**

A Revocable Trust is also commonly referred to as a living trust. A Revocable Trust provides for the management of your property during your lifetime in the event of your incapacity and allows for the distribution of your property after your death. During your lifetime, typically you are the trustee or manager of your property. In the event of your incapacity and at the time of your death, a successor trustee becomes the financial manager of your property. Upon your death, the successor trustee distributes your property to people and charities you have chosen as beneficiaries of your estate.

## **WHAT ARE THE ADVANTAGES OF A REVOCABLE TRUST?**

The primary advantage of a Revocable Trust is that upon death, your successor trustee and your beneficiaries do not have to wade through the probate process. Your successor trustee promptly pays your debts and distributes the balance of your estate to your beneficiaries. With a Revocable Trust as the centerpiece of your estate plan, the delay and cost associated with probate is avoided. If you own real estate here in Tennessee and elsewhere, probate can be avoided in Tennessee and in each state in which you own property.

In addition, a Revocable Trust is a private document, not recorded at the courthouse. Your assets, your debts and the identity of the beneficiaries of your property are private matters. A Revocable Trust is unlike a Will which when probated, becomes public record together with a public filing of an inventory and accounting of all of your debts and worldly possessions. With a properly prepared Revocable Trust, no probate of your estate and therefore, no public filings are required.



Ms. Plemmons is a life-long resident of East Tennessee, a practicing attorney with over 30 years experience in preparation of Wills, Trust and probate law.

Ms. Plemmons is a 1982 graduate of the University of Tennessee College of Law, with honors, is admitted to practice in the United States Supreme Court, U.S. Tax Court, and all Tennessee trial courts. Other accomplishments include designation as a Rule 31 Listed Civil Mediator and Family Law Mediator; member Tennessee Bar Association House of Delegates 2003 - present; Hearing Committee Member for the Tennessee Board of Professional Responsibility, 1997-2004; Board of Governors of the Tennessee Trial Lawyers Association, 1999-2001; member of the Tennessee Bar, the Loudon County Bar, and the Monroe County Bar Associations.

*Ms. Plemmons is a member of Tellico Village First Baptist Church and Tellico Village Kiwanis Club. She has been a Tellico Village property owner since 1988 and has enjoyed practicing law in "downtown" Tellico Village since 2005.*

#### WHAT ARE THE ADVANTAGES OF A WILL?

Generally, preparation of a Will is less expensive and less time consuming than creating an estate plan with a Revocable Trust. With a Will, your estate plan can be finalized in a very short period of time.

Some estates are better served with the formalities of the probate process. If you feel there may be conflict among your loved ones after your death, a court supervised probate may help relieve any concerns. The probate court acts as a supervisor of the administration of your estate. All of your property is subject to inventory and the payment of your debts and administration fees are governed by law. Distribution to the beneficiaries of your estate is only made after the probate court approves.

#### WHAT IS PROBATE?

Probate is a court procedure to assure that all property of the decedent is inventoried, all debts and taxes are paid and that the balance of the decedent's property is distributed to the beneficiaries of the decedent's Will or the decedent's heirs at law if there is no Will. All of these functions are supervised by the probate court in the decedent's home county.

The probate process generally takes 6 – 12 months, although it can take much longer. Creditors of the decedent have deadlines to file a claim in the estate for payment. Releases from the state taxing authorities and all creditors must be filed with the court before the probate judge will issue an order permitting final distribution of the decedent's property to the Will beneficiaries or heirs at law.

This pamphlet is intended for general educational purposes only. For legal advice, please contact Ms. Plemmons for an appointment.

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# WILLS TRUSTS & PROBATE

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