

## No Federal Estate Tax, No Problem?



It's official. The 2015 federal estate tax exemption will rise to \$5.43 million per individual (from \$5.34 million in 2014) due to an inflation adjustment. Married couples can get the benefit of two individual exemptions, for a total exemption per couple of nearly \$11 million this year. As a result the federal estate tax is no longer the biggest estate planning concern for most Americans. Only about 3,700 estates, or 0.12% of the total, are expected to owe federal estate tax this year.

So ... no federal estate tax, no problem, right? Wrong. The non-tax issues of estate planning are, for most of us, even more compelling because they cut to the very heart of our lives, work and families. Regardless of whether you may or may not incur a federal estate tax liability, issues of *personal dignity*, *family conflict* and your *life's legacy* are fundamental to proper estate planning.

### Your Personal Dignity

Car crashes, Alzheimer's and strokes. Injuries and illnesses can strike anyone, leaving them legally incapacitated. And, once you are legally incapacitated, you can no longer manage your own personal, health care or financial affairs. Nevertheless, important decisions affecting you must be made, despite your lack of legal capacity, often on a day-to-day basis. For example, your incapacity would not excuse you from paying your bills or your taxes. While you cannot emotionally prepare for something like

incapacity you can legally prepare to ensure that your wishes are honored should the worst happen.

If you became incapacitated, who would make decisions on your behalf? If you're married, you'd probably guess your spouse. If you're at least 18 years of age and living at home, you'd probably say your parents. Both answers are incorrect.

On your 18th birthday, you are considered an adult responsible for your own decisions. Whether married or single, you must appoint agents through proper *Durable Powers Of Attorney* to make personal, health care and financial decisions on your behalf in the event of incapacity. Alternatively, a court process involving at least three lawyers may be required to appoint agents to make such decisions for you under the ongoing supervision of the court.

## Avoiding Family Conflict

Avoiding family conflict is one of the most compelling reasons for estate planning. Sadly, conflicts are rather common these days following the death of a family member. That fact was confirmed in a survey conducted by the AARP/Scudder Investment Program. In the survey of Americans age 50 and over, 20 percent of respondents cited problems among surviving family members due to their inheritance, or lack thereof. The survey made an interesting discovery: Cash is the most prized asset over which family members fight, but tangible personal property (e.g., antiques and heirloom jewelry) came in a close second. In fact, respondents reported that such property accounts for 47 percent of the feuds, followed by personal residences at 43 percent, other real estate at 31 percent and other investments at 11 percent. Fortunately, the laws of most states provide a flexible solution for the specific distribution of tangible personal property.

As part of your estate planning, find out whether your state authorizes a separate writing to be made on which you may list the specific items and who is to receive them. In most instances, this writing may be handwritten, but it must be signed and incorporated by reference within the estate planning legal documents themselves. A little time spent preparing this writing now as part of your overall planning can help thwart problems later.

Perhaps the most important step you can take to minimize family conflict is to communicate your plans ahead of time. Then be sure to commit those plans to legal documents and make updates or changes as necessary to reflect changes in your family dynamics, financial circumstances, and estate planning goals.

## Protecting Your Legacy

Leaving an inheritance to provide for your heirs seems like a positive decision. However, the outcome may be far from what you intended if you haven't considered the potential risks. What if that inheritance were squandered by a shortsighted eighteen-year-old on an expensive sports car, leaving the heir broke but fashionable? What about money left to a previously happy couple now engaged in a bitter divorce? What would happen if the heir were involved in a lawsuit or bankruptcy?

If you die without even a basic will, or with one that is outdated and no longer

meets your needs, you could leave your loved ones tied up in legal knots at a most vulnerable time in their lives. Proper planning can ensure your family is provided with a thoughtfully prepared, efficiently implemented and effectively administered estate plan that protects your legacy at death and for generations to come.

## About Those Taxes ...

Oh, and one more thing, don't overlook the potential for state death taxes. As of January 1, 2015, 19 states and the District of Columbia will collect a state death tax. State death taxes, which kick in for estates valued at only \$1 million or less in several states, could take a big bite out of your legacy. Also, be aware that many states impose a nonresident estate tax on real and tangible personal property situated within the state. So even if you reside in a state without a death tax but own property in another state, death taxes could still be an issue.



# Caring for Pets That Outlive Us

Americans do love their pets. According to the 2013-2014 American Pet Products Association (APPA) National Pet Owners Survey, 82.15 million US households, or 68 percent, own a pet. How much do we love our pets? The APPA also estimates we will spend \$58.5 billion on our pets this year for things like food, veterinary care, medicine and grooming. Specifically, if you own a dog, the APPA estimates you'll spend an average of about \$1,650 each year caring for Fido; we spend slightly less on our feline friends, an average of about \$1,270 per year.

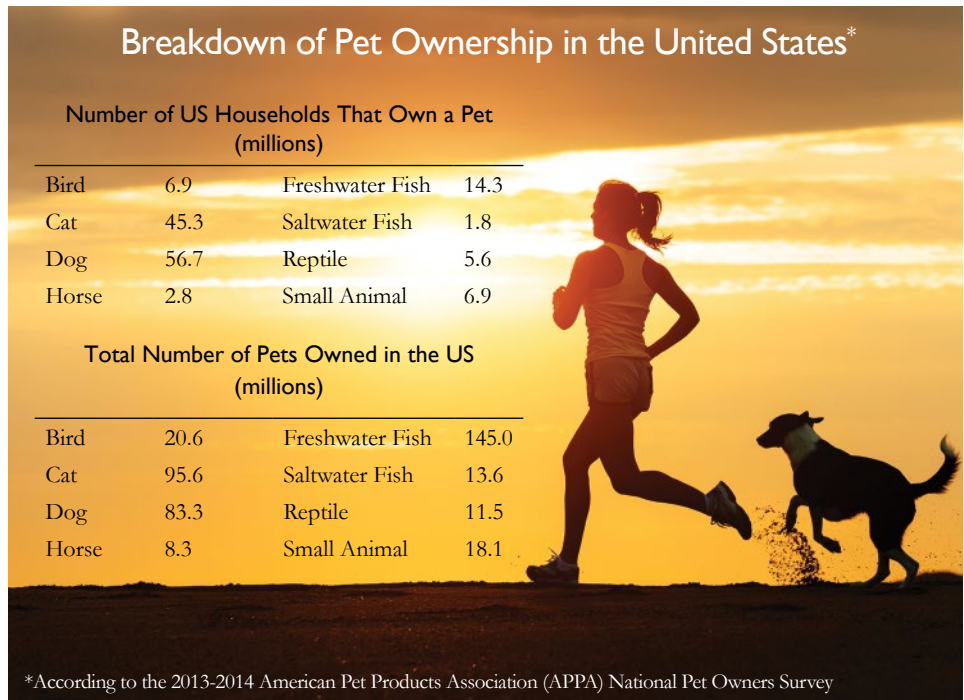
But what if something untoward should happen to you? Who would cover those expenses and care for your pet after your death? Proper estate planning can help ensure the safety and happiness of our loyal companions, even after our death.

Under traditional estate law, there was little you could do to ensure your pet would be properly cared for after your death because animals are considered property and could not legally be a beneficiary to a trust. However, a provision in the Uniform Probate Code (UPC) adopted in 1990 signaled a change in the law allowing for the care of a pet that outlives its owner.

Currently, 47 states have adopted one of these model law provisions, or their own version of animal trust legislation. Mississippi is the latest state to do so in 2014. Kentucky, Louisiana and Minnesota are the only states that do not have laws authorizing pet trusts.

## Anatomy of a Pet Trust

A Pet Trust may be created under a Last Will and Testament or a Revocable Living



Trust. Either way, there generally are four parties to any Pet Trust: *the trustee, the caretaker, the pet* (one or more) and *the remainder beneficiary*. In addition, a Pet Trust should have *property* contributed to it to fund the lifelong care of your pet.

The *trustee* may be an individual, a corporate fiduciary, or both. As with most choices, there are advantages to each approach. The same is true with the caretaker. However, it may be prudent to ensure that the trustee and the caretaker are not one in the same. While a trusted friend or family member may seem the best choice, whenever money is involved there also lurks temptation for mischief. Also, appoint successors in case a primary caretaker is unwilling or unable to serve.

The *remainder beneficiary* is the party designated to inherit any remaining trust property upon the death of your pet. Typically, the remainder beneficiary is a family member, friend or charity.

Setting aside the appropriate amount of *property* to fund your Pet Trust is essential to its success. For example, a horse not only eats like a horse, but has an average life expectancy of between 25 and 30 years. By contrast, a Great Dane has a much smaller appetite and a much shorter average life expectancy of between seven and 10 years. Accordingly, you would need to set aside a significantly larger nest egg to fund the future care of a horse than for a Great Dane. If the sum seems daunting, consider life insurance that pays directly into the trust for the necessary funding.

For more information about animal trusts, including a table listing statutes by state, visit the *Animal Legal and Historical Web Center at Michigan State University College of Law*.

Scan with your smartphone or visit: <http://bit.ly/1ygh55>



The future belongs  
to those who  
believe in the  
beauty of your dreams.

- Eleanor Roosevelt

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