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DISABILITY PLANNING



Who will manage your assets and make healthcare decisions for you if you become incapacitated and can no longer handle these responsibilities yourself? Unless you plan ahead, the answer is a guardian or conservator appointed by a state court.

Living Trusts

A living trust avoids this situation. Your trustee simply continues managing your assets as your trust agreement directs. But not everyone is ready to delegate asset management responsibilities while they are still healthy.

Standby Trusts

If you prefer to manage your assets yourself, a standby living trust may be the strategy for you.

With a standby trust, your trustee takes over management of your assets only if a predetermined event, such as your incapacity, occurs. You may reassume management of your assets if and when you recover from your incapacity.

Self-Trusted Trusts

An alternative might be to serve as trustee of your living trust, making sure you've named a successor trustee to take over management of your assets while you're incapacitated. That way, your assets will continue to be managed as you want with no interruption.

Health Care Provisions

In addition, you may want to include disability and long-term care insurance in your estate plan to help to preserve assets for your family and others heirs in the event you become incapacitated. A living will or durable power of attorney for health care helps ensure your wishes are carried out if you are unable to make health-care decisions yourself.

Living Wills

Basically, a living will speaks for

you when you are unable to do so. Usually, the purpose of a living will is to express your desire not to receive extraordinary medical treatment. You determine the kind of medical care you want under the circumstances you describe. You should express your wishes in as much detail as possible so that medical-care providers will be able to understand your intent clearly.

For instance, you might specify that you would not want "artificial feeding" and you should explain what you mean by "terminal." In some states, a living will is effective only if you've been diagnosed with a terminal illness. Your living will may not be effective if you suffer a stroke or are in a coma and your condition isn't considered terminal.

Durable Powers of Attorney for Health Care

A durable power of attorney for health care — sometimes called a healthcare proxy — designates someone else to make decisions

for you if you are unable to make those decisions yourself. The scope of a durable power of attorney generally goes beyond that of a living will. While a living will usually is concerned with the withdrawal or withholding of life-support treatment in the event you become terminally ill, a durable power of attorney for health care can address nearly any health decision.



IRS Penalties in Store for Mismatched W-2 Name/SSN Combos

The Social Security Administration (SSA) and Internal Revenue Service (IRS) are becoming more vigilant in tracking employers with mismatched name and social security number combinations. Beginning in June 2004 for Forms W-2 filed in tax year 2002, the IRS plans to impose penalties on employers for incorrect name and social security number combinations. The penalty would be \$50 per incorrect W-2, not to exceed a total of \$100,000 per small business employer and \$250,000 per large-business employer.

According to Jean Ward, senior program analyst with the IRS's

Office of Penalties and Interest, the IRS will begin by working with the SSA to identify employers with the highest number of errors and the percentage of errors. These employers will be first contacted by letter by the IRS. Ward said that the new measures are "not generally done to impose penalties, but penalties may be imposed in cases where the employer is misleading or fails to take steps to resolve the issue."

Market Advice

I'm sure that stocks will move ahead,
Unless they should go lower;
The pace, I think, will be quite fast,
Unless it should get slower.

Some profit taking I'd advise,
Where no loss is reflected;
In fact, it might be more than wise,
Where no gains are expected.

The volume of transactions,
May perhaps show hesitation;
This is a point, I might suggest,
To give consideration.

The upward and the downward moves,
Have not been too emphatic;
Prognostications market wise
Are, therefore, enigmatic.

Opinions that are here expressed,
Are subject to revision;
So if you don't agree with me,
Then make your own decision.

H.E. Pickenbach

Top Mistakes Made by Private Companies

Commingling Unrelated Assets and Liabilities

Commingling occurs when accounts, books, or records of a business include both those of the business as well as those of others, such as shareholders or affiliated companies. Failing to run the business like a business, and to keep accurate and separate records, can have significant adverse effects. First, commingling can diminish the value of the business. Second, although rare, commingling can result in a loss of the limitation of liability enjoyed by shareholders of a corporation. Commingling can constitute grounds to allow creditors of the corporation to "pierce the corporate veil" and impose liability on the shareholders.

The corporate veil may be pierced where the parties themselves have disregarded the separateness of legal entities by commingling on an interchangeable or joint basis, or confusing the otherwise separate properties, records, or control. However, to pierce the corporate veil, proof must be shown that the shareholders' disregard for the corporate entity made it a mere instrumentality for the transaction of their own affairs; that there is such unity of interest and ownership that the separate personalities of the corporation and the owners no longer exist, and that to adhere to the doctrine of corporate entity would promote injustice or fraud.

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