

EXECUTOR'S LETTER

I began recommending to my clients that they write a letter to their Executor to provide information about their assets and their desires concerning the distribution or division of their personal effects.

The more I work with families, both those who have written letters to their Executors and those who have not, I have begun to realize that the letter can be used in many ways. I urge you to consider writing a letter to your Executor as a part of your estate plan.

Let me highlight some of the things I recommend including in your letter to your Executor that clients have included, or that clients would have liked to have had included in the Executor's letter.

- < First, a statement of the purpose of the letter. The letter is a communication of instruction, preferences, feelings, but not a binding document that is required to be followed. For example:

I am writing you this letter as a letter of guidance and of my preferences. I intend for it to be helpful in handling matters which may arise on my death and for it to be followed when it is useful and disregarded when it isn't. I have tried to think of what you would need to know and what I'd like to do to help you if I were there.

- < Second, burial instructions. Sometimes people include burial instructions in their Will, but frequently the Will is not read until after someone is buried. Certain decisions, such as cremation, may only be made by a family member or an agent appointed in a separate document. However, the family members welcome any guidance you can give them concerning your desires - it is helpful, comforting, and minimizes the inevitable stress.

Third, location of Will, and, if it is in the safe deposit box, where the key is kept.

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- < Fourth, a list of your assets or where such list can be located. Sometimes handling matters after a person's death requires more detective talent than organizational skills. The individual may have been disorganized, but it may also be that the person was very private about personal and/or financial matters. The process may begin with trying to find the Will and include scouring the mail and tax returns to figure out what assets he or she owned.

A list of liabilities can be helpful in some situations as well.

- < Fifth, names of advisers, including accountants, financial advisers, brokers, life insurance agents, attorneys, secretary, business associates or friends.

Some of these advisers may be able to provide information or guidance in a particular area such as the sale or management of a business. For example:

As you know, I have discussed my business with Joe Lee and he has been my mentor for several years. His knowledge, experience, business judgment and intuition have been invaluable to me. I recommend consulting Joe concerning the best manner of positioning my business for a possible sale and the efficient management of the business in the interim.

- < Sixth, general advice concerning the administration or management of property in the estate.

Visualize yourself talking with your family ... after your death. What would you like to say ... to assist them, to guide them, to comfort them?

A helpful way to formulate your thoughts is to visualize yourself talking with your family, assisting them after your death. What would you like to say to them - to assist them, to guide them, to comfort them?

This general advice can include very specific information concerning the sale of the residence, other real estate or other property, particularly any property whose sale might be “timing sensitive” or which must be sold since it is not divisible between the family members or is needed to pay estate taxes. For example:

The real estate I own south of town I purchased for an investment and intended to sell when the lake was completed. I had intended to hold the property until the year 2000 watching the development in the area. If the property reaches a value of \$5,000 per acre, I intended to sell it. Of course, I would consult Sam and others knowledgeable in the area to see if that plan is still feasible.

- < Seventh, express your desires concerning the disposition of personal effects.

The division of household furniture, furnishings, jewelry and other personal effects can cause more dissension than the division of money. Although, the conflict may be over who gets “more,” usually it arises over “sentimental value”.

Sentimental value being the feeling that you, Mom/Dad, want a particular child to have a certain item, or that a certain item

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“means more” to one child than another (and there is rarely agreement over to whom it means more). Everything can “mean” a lot to one child, but does that mean another child doesn’t get anything? Designating certain items to go to certain people, or even addressing the possibility of conflict can significantly reduce the likelihood of conflict. I’ll mention a few ideas:

- < List specific items you would like to go to certain people.
- < List general items/categories (and “everything else”) which you do not mind if they sell or throw away.
- < Specify a method of dividing the personal property, such as:
 - C Have all items appraised informally;
 - C Have each person draw a number;
 - C Round one:
Person drawing number “1” selects an item, then person drawing number “2” selects an item, and so on;
 - C Round two:
Person having drawn number “2” begins the selection process;
 - C A person who has selected a n i t e m o f disproportionately large value is skipped in a selection process round until the values of property chosen by all are relatively equal.

Express your desire that your children agree. You can be specific about handling a conflict or leave it general.

- < Finally, communicate your desires in handling a trust.

For a couple with minor children, this may include thoughts concerning distributions to your children for education and thereafter. For example, do you want all expenses including living and entertainment expenses paid from the trust? Any feelings about type of college? Or its tuition expense? Requirements to maintain a certain grade? Graduate

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school? Extended undergraduate studies? A car? And, after they’ve graduated, do you want them to receive all the income unless there’s an unforeseen situation which would indicate otherwise. Do you favor principal distributions for a house, to start a business, living expenses?

An example of what someone with small children and a modest estate might say in a letter to his or her Executor:

I want to tread a line between providing my children with everything, which I feel can be a disincentive to their working, and not giving them the opportunity to pursue their educations and careers to the fullest. I would like both of my

children to have the opportunity to go to college and graduate school, and to have the tuition at the college of their choice paid for. I would also like to provide my children, at least during undergraduate work, with payment of all expenses necessary for their subsistence. However, I do not want to support a high standard of living while they are in college because I feel this may have two effects; first, to develop unreal expectations concerning the position they will be in when they first graduate from college, and secondly, I would rather they be focused more on school and less on the social aspects. If they would like to have extra money for nicer clothes, more entertainment, and they obtain a part-time job for that purpose, they should not be penalized in any way for doing so. One thing about which I am not sure at this time is the extent to which I am willing to provide for an education which a child is not interested in pursuing. For example, if a child is doing marginally, and it appears that the sole purpose for that child staying in school is to obtain the support, I am not interested in funding that pursuit or lack of pursuit.

An example of what someone with adult children might say in a letter to his or her Executor:

My primary objective was to educate each of you and to

assist you in buying a home. My original intent was to spend the rest. However, with a little late-coming maturity and prudence on my part, I have been able to actually accumulate some property to leave to y'all. My hope is that you will gain that maturity and prudence earlier than I did and will keep this money as the beginning of your own nest egg. As I've told you, I left each of you a share in a trust, with each of you as the Trustee of your own trust. I want each of you to be able to invest the assets in your trust as you decide. The funds are always available to you if you need them, but I hope you will save these funds as your own nest egg for your retirement. I intend for the funds to be for your security. I know some of you have the feeling of "Why have money if you don't use it to enjoy life more?" and, to an extent I agree. I only ask that you defer that use for a while as I think your judgment of the type of use which will enhance your life may change over time. I want you to develop a strength and talent with which you can not only support yourself, but which also gives you a sense of satisfaction and self worth. Sometimes, we only gain that in our struggle to "make a living." I love and trust you. I've seen your life "in process" and feel confident that each of you is

*mastering that process called
life.*

I hope these suggestions can be helpful to you in preparing your letter to your Executor. Until next time...