

MODERN FAMILY

An Educational Series Highlighting Longevity Planning Issues - Chapter Two

By Nancy S. Hearne

[Summary of Chapter One: Steve, a 70 year old widower and retired professor, lives in Princeton, New Jersey. His net worth is \$4 million, including his \$750,000 home. He has 3 daughters, one of whom lives locally. The others live in Virginia. All of his children are married and have children of their own. Steve met with an investment advisor who forecasted his cash flow needs (his current after tax expenses are \$100,000), and also performed a “stress test” on the forecast with hypothetical market downturns, higher inflation and increases in health care costs. Steve is now meeting with his attorney to discuss a longevity plan].

Steve tells his attorney that after consulting with his three daughters and visiting local continuing care retirement communities, he will continue to live in his home. If the need for custodial care arises, he will hire live-in caregivers and his daughter, Alix, who resides in Hopewell, will monitor the care as needed. Should the costs be more than projected, Alix will make accommodations for Steve and a caregiver in her large home and his residence will be sold.

Steve wants to manage his finances but recognizes that he is having some difficulty keeping track of his bills and investments. He and his attorney agree to a plan that consolidates his non-retirement assets into one account that Steve will transfer to a revocable trust. With the consent of his three daughters, he will appoint his daughter, Phoebe, as his Co-Trustee. Phoebe has a master’s degree in Finance, and her sisters are confident in her ability to manage fiduciary responsibilities. The trust will serve as a vehicle for a seamless transition of management of Steve’s finances to Phoebe if Steve becomes incapacitated or simply decides he doesn’t want to bother with financial matters going forward. His retirement accounts, which consist of IRA’s and accounts at TIAA CREF, will also be consolidated into one IRA. While not eligible for placement into the revocable trust, Phoebe will be able to play a similar role to that of a trustee because she will be appointed as Steve’s attorney in fact. The investment advisor, who will be introduced to his attorney and his three daughters, will be instructed to copy all of his children on monthly statements in order to insure transparency going forward.

Steve and his attorney also agree that his durable power of attorney will give Phoebe authority to change his domicile to minimize the impact of higher taxes or to improve Steve’s access to custodial care in a continuing care retirement community.

The trust will pay Steve all of the income on a monthly basis, and as much principal as he wants or needs during his life. When Steve dies, the assets will be divided among his three daughters in equal shares. The trust also creates further trusts for grandchildren should one of his daughters die leaving descendants who are under age 25.

Steve would like to embark on some lifetime planning to make gifts to his children and their families. However, his investment advisor cautions against a depletion of his net worth too soon as he may need capital for in-home care in the future. Steve and his attorney agree to meet at least twice a year, or more frequently if Steve’s health deteriorates. These meetings are important for several reasons:

- Should Steve receive a prognosis of a terminal condition, he will want to implement an aggressive gift plan to reduce his estate’s exposure to New Jersey estate tax.
- If Steve’s net worth grows over time, he will begin a gradual gifting of assets to family members.
- If Steve begins to show signs of incapacity, his attorney will contact his daughters to initiate the transition of all financial management to Phoebe.

Steve instructs his attorney to review the plan with Phoebe and to send a copy of the trust document and new power of attorney to all of Steve’s three daughters.

In the next chapter of this series, we will discuss issues arising after Steve meets a woman on an internet dating site whom he decides to marry.

Written by Nancy S. Hearne, a partner in Saul Ewing’s Personal Wealth, Estates and Trusts Practice Group. Nancy can be reached at 609.452.3156 or nhearne@saul.com.

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