

WILLMS, S.C.

MEMORANDUM

TO: Clients and Friends of Willms, S.C.

FROM: Andrew J. Willms

DATE: October 11, 2016

RE: How to Prepare for an Estate Planning Consultation at Willms, S.C.

Your estate plan may very well be the most important set of legal documents you will ever sign. With a well-drafted estate plan, you can:

- Control how your property will be distributed at the time of your death.
- Nominate a guardian for your children.
- Reduce the costs of probate (and, perhaps even eliminate the need for probate altogether).
- Provide for the preservation of wealth and the conservation of assets both during life and after death.
- Protect your heirs' inheritance from creditor claims, divorce, and unnecessary taxation.
- Reduce wealth transfer taxes imposed at death. (The highest marginal rate for the United States estate tax is currently 40%.)

The following is a checklist of steps you can take and issues you may want to consider to make your initial estate planning consultation as productive as possible.

1. **Complete a personal information questionnaire and return it to us prior to your initial meeting.** Our Firm's Personal Information Form can be used for this purpose.
2. **Consider how you would like your estate to be distributed.** Perhaps the most important aspect of an estate plan is to ensure your assets will be distributed as you would like after your death. Before your initial meeting,

ask yourself how much of your estate should be distributed to whom and when? In this regard you should consider:

- a. Who would you like to receive your personal belongings and other tangible personal property?
 - b. Are there individuals or institutions that you would like to receive specific bequests of a cash gift or the gift of a specific asset, such as a vacation home or business interest?
 - c. How should the remaining assets of your estate be distributed?
 - d. Should the beneficiaries of your estate receive their bequests outright, or should they be held in trust for their benefit?
3. **Do you want the courts to oversee the distribution of your estate?** Probate is the term used to refer to the legal proceeding needed for a court of law to enforce the provisions of a Will. However, if you are able to identify a person or institution to carry out your wishes, then you may want to structure your estate plan in a way that eliminates the need for probate.
4. **Do you want to create a living trust as part of your estate plan?** A trust is a tool used to provide for the management of property either during life or after death, or both. The trust agreement directs a trustee of your choosing as to how, to whom and when the trust assets are to be distributed. As a result, assets held by the trust are not subject to probate.
5. **Who would you like to name as fiduciaries in your estate plan?** A fiduciary is a person or institution that manages the affairs of another for his or her benefit. Your estate plan can appoint a variety of different types of fiduciaries, including:

Personal Representative. This is the person appointed by the probate court to represent, manage, and distribute the assets belonging to a decedent that are subject to probate, subject to judicial oversight.

Guardian. A guardian is responsible for the person or property, or both, of a person who is a minor or an incompetent adult. The actions of a guardian are also subject to judicial review.

Trustee. A trustee is the person or bank that is responsible to carry out the provisions of a trust agreement. The trustee typically holds legal title to the trust assets, distributes those assets to the beneficiaries in accordance with and as directed by the trust agreement, and is responsible for the investment and

management of the trust assets. Generally speaking the actions of a Trustee are not reviewed by a judge unless a dispute arises between the Trustee and the person or persons for whose benefit the Trust was established (the Trust beneficiaries).

Financial Agent (a/k/a attorney-in-fact). This is a person who is authorized by a document known as a Power of Attorney to handle your financial affairs if you are unable to do so.

Medical Agent (a/k/a health care agent or health care surrogate). This is a person who is authorized by a Health Care Power of Attorney to make medical decisions on your behalf if you are unable to do so.

- 6. What are your preferences regarding your health care if you are terminally ill or unable to make decisions on your own behalf?** For example:
- a. Do you want to declare in advance your preferences with respect to receiving and continuing life support? Or, do you prefer to delegate these decisions to your medical agent?
 - b. Should the cost of care be considered when making medical decisions for you?
 - c. When should artificial life support be withheld or withdrawn?
 - d. Are there certain types of life support (such as nutritional support and fluid maintenance) you would like to have continued even if you are terminally ill?
 - e. Do you want to be resuscitated if you are terminally ill?

We hope this checklist helps you prepare for your meeting with us to discuss your estate plan. In the meantime, please feel free to contact us if you have any questions regarding any of the items found on this list.

End of Memo

Information contained in this memorandum is not a substitute for professional estate planning advice nor should any information provided in this memorandum be construed as legal advice. Therefore, none of the information being provided should be relied on without seeking the advice of legal counsel or other professionals regarding the tax and non-tax consequences associated with the same.