Estate Planning

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I. What is an Estate Plan?

For purposes of this discussion, an estate plan is the organization of your financial affairs for their control and utilization in the absence of your ability to handle them yourself, and for the final disposition of your assets upon your death. An estate plan might also include tax planning to reduce income tax and death taxes that might be imposed on you, your estate and your heirs. Additionally, your estate plan might address special needs and considerations of you and your family.

Everyone has an estate plan. The question is, did you plan your estate intentionally, or by default? You have the right and the opportunity to direct your estate plan. But, if you fail to plan your estate, the laws of each state, and, to some extent, federal law, provide a plan for you. The laws are necessary to protect your assets while you are living from theft or misappropriation, and, upon your death to assure the orderly passage of your property to your family. They are based on social customs and norms. While the laws are a good default plan for purposes of our society in general, their "one size fits all" formula is not likely to be the best for you and your family. By taking the time to purposefully consider and plan your estate, you will be able to best secure the use of your finances for your benefit during all phases of your life, and provide for the transfer of your assets upon your death in the manner that best serves your desires and the needs of your family.

You have an estate plan. If you did not plan it, do you know what your estate plan is?

II. What are the Basic Estate Planning Documents?

A. A Will or Testament

The primary document in an estate plan is a will. The will is also known as a testament. The actual legal term in Louisiana is "testament." In practical usage, the terms are used interchangeably and sometimes in combination such as "Last Will and Testament." Your testament addresses the distribution of your property after your death. Any property not disposed of by your testament will be disposed of under the laws of intestacy. Your testament also typically names your executor, names a tutor for minor children, and otherwise provides for the orderly administration of your estate.

B. Powers of Attorney

A Power of Attorney is your grant of power to another individual to act on your behalf with respect to your property. A Healthcare Power of Attorney is your grant of power to another individual to obtain confidential medical information and to make healthcare decisions on your behalf. You, as the person granting the power, are called the principal, and the person to whom you grant power is called your agent. In Louisiana a power of attorney is also called a procuration or a mandate, and the person to whom you grant power is called the representative or the mandatary. In practical application these terms are used interchangeably. In this this discussion the terms "Power of Attorney," "principal" and "agent" will be used.

A power of attorney does not deprive the principal of the legal capacity to make decisions for himself. The agent has a responsibility to use the power solely for the benefit of the principal, and to use it subject to the principal's instructions, if any are given.

A power of attorney may be revoked at anytime by the principal, and otherwise is valid only during the life of the principal. Succession and probate laws apply after death, and the administration of the deceased principal's property will be handled by a succession representative – either an administrator or executor.

A power of attorney may be limited to a specific transaction or for a specific time, or it may be general and unrestricted. A power of attorney is referred to as durable if it remains effective if the principal becomes incompetent. For estate planning purposes we generally use a general, durable power of attorney. This is because a power of attorney is most beneficial and effective when the principal becomes unable to manage his property and affairs for himself.

Granting a general, durable power of attorney is the equivalent of legally cloning yourself. By granting such powers, you allow another person to act on your behalf with respect to all legal, financial, property and healthcare matters. While powerful and very useful when needed, powers of attorney are also subject to abuse by the agent in whom much trust is placed. Therefore, give such a power only to a person in whom you have absolute trust and confidence that they will always use the power solely for your benefit, and in the manner that best matches how you would act, if you were able, on your own behalf.

C. Living Will

A living will is your directive to withhold life-sustaining procedures if you are diagnosed by two physicians, one of whom is your treating physician, to be suffering an incurable, irreversible injury or illness that will result in your death. A living will applies only when you are otherwise unable to give instructions on your own behalf. The living will provides instructions for your treatment and supersedes any instructions that may be given by family members or your agent under a healthcare power of attorney. Essentially, you make this difficult decision for yourself and relieve your family of making it for you.

The Louisiana form for a living will requires you to also instruct how you view the invasive administration of nutrition and hydration. This is the intravenous feeding of food and water. You must either designate the administration of nutrition and hydration as "life sustaining," in which case it will be withheld, or as "comfort care," in which case it will be administered.

Although Louisiana has a statutory form for a living will, you are free to modify it as you wish.

If you do not wish to provide these instructions, do not sign a living will. Without a living will, the decisions regarding the standard of care and the level of treatment you receive will be determined by your agent under a healthcare power of attorney, by your family members, and by the general medical procedures and standards of the healthcare community.

D. Trusts

Trusts can be used to accomplish a variety of estate planning purposes. Generally, a trust is the possession and administration of property by one person for the benefit of one or more other persons. The typical use of a trust is to provide for special circumstances when an heir is thought to be unable or incapable of managing inherited property prudently, or to provide for asset protection and management.

An important planning feature of a trust is that it can be made exempt from the claims of the beneficiary's creditors. Such a trust is called a "spendthrift trust." A spendthrift trust is critical planning if your heir has existing financial problems, is in a high risk profession, or is in a troubled marriage.

Special Needs Trusts are used to prevent the disqualification of a child or other family member who is, or may become, the recipient of means-tested government benefits. A special needs trust can be used to supplement the level of care and to pay for healthcare and living expenses not otherwise covered by means-tested benefit programs.

Trusts are used for estate tax planning purposes to take advantage of lifetime gifting opportunities, and, upon death to insure the maximum use of available federal estate tax exclusions of spouses. Trusts are often created to own life insurance for the purpose of removing the life insurance proceeds from the taxable estate of the insured.

Trusts can be either revocable or irrevocable. For estate tax planning purposes, trust are usually created to be irrevocable. Revocable living trusts are sometimes promoted for use as a substitute for a testament, to avoid probate with respect to the property placed in trust, and for management of property after the owner becomes disabled or incompetent.

Trusts can be created and used while you are living. These are called "inter vivos trusts." A trust can be incorporated into your will to become effective only upon your death. Such trusts are called "testamentary trusts."

E. <u>Life Insurance, Annuities and Retirement Plans</u>

A review of life insurance policies, annuities and retirement plans should be a part of your estate planning. The proceeds of these assets pass strictly according to the beneficiary designation of record with the insurance company, and with the administrator of any retirement plan.

III. What Happens to Your Property if You Die Without a Will?

Each state has laws of intestacy. These laws apply only when a person dies without a valid will. This discussion will be limited to the laws of Louisiana.

First, whether you die with or without a will, your creditors get paid first. Only the balance of your estate after the payment of creditors and administrative expenses will be available for distribution to your heirs. If you die bankrupt or insolvent, your heirs do not inherit your debts. In such a case, all of your property will be liquidated to pay administrative expenses first, then to pay your debts to extent of your remaining assets. If the assets of your estate are not sufficient to fully pay all of your creditors, your heirs do not become liable or responsible for your unpaid debts.

If you die without a valid will in Louisiana, your property will go to your heirs. Generally, your heirs are those persons who are of the closest degree of relationship to you. Who your heirs are is determined at the time of your death and depends on your marital status and whether you have children or not. Louisiana's community property laws protect the interest of the surviving spouse, but your children are your closest and most favored class of heirs.

The first question to ask in analyzing an estate is, "Was the decedent married?" If so, the next question is "Does Louisiana community property law apply?" For purposes of this discussion, it will be assumed that community property law applies because that is by far the most common circumstance. Generally, community property consists of all property acquired by a married couple during their marriage. There are exceptions to this general rule that will not be discussed here. Each spouse owns a one-half interest in all of the community property. Therefore, the estate of a deceased spouse will include only the deceased spouse's one-half interest in the community property. The surviving spouse owns and always gets a one-half interest in all of the community property. After the community property has been identified, the rest of a decedent's estate is separate property.

If a decedent is survived by children, the children will inherit equal shares in all of the decedent's property, regardless of whether the property is community or separate. However, the surviving spouse will inherit a usufruct of the community property. This means the surviving spouse gets the benefit of the possession, use and enjoyment of the deceased spouse's one-half share of community property until remarriage or death. Upon termination of the usufruct (i.e. upon death or remarriage) the children receive the property in full ownership.

Children inherit from their parents in equal shares. Each share is called a "root." If a child with children predeceases the decedent, the deceased child's share, or root, will pass to the deceased child's children equally. For example, assume a person had three children but was survived by only two of them, and the deceased child had two children. Because there were three children, there are three roots. The person's estate would be divided so that each root receives one-third of the estate. The two children who survived their parent would each receive a one-third share. The two grandchildren (the children of the predeceased child) would split a one-third share. Thus, each grandchild would receive a one-sixth share. This concept is called "representation" because the children of a deceased person represent their parent in the succession of any ancestor. Representation takes place ad infinitum in the direct line of descendants.

If a person is not survived by children, or by grandchildren or other descendants, all of the decedent's community property will pass, in full ownership, to the surviving spouse, and all separate property will pass to the decedent's siblings in equal shares. However, the decedent's parents, if either of them is then living, will receive a usufruct of the separate property that passes to siblings. Upon the death of the last surviving parent, the usufruct terminates and the siblings become full owners of the separate property. Recall above we discussed the concept of representation. Representation also applies to the descendants of siblings. Therefore, if a sibling is not living at the time of the decedent's death, the deceased sibling's children, and other descendants, if any, will inherit the deceased sibling's share of the decedent's estate. If the decedent is not survived by siblings or their descendants, but is survived by a parent, the parent inherits the decedent's property in full ownership. If a decedent is not survived by descendants, siblings or their descendants, or by parents, all of the decedent's property passes to the surviving spouse.

If none of the above applies, the decedent's estate passes to any then living ancestor, and, if none, to the decedent's other collateral relations in the nearest degree of relationship. Representation does not apply to collateral relations that are not siblings of the decedent. Therefore, the then living collateral relations in the nearest degree of relationship to the decedent take in preference to all other collateral relations. If there is more than one person in the nearest class of relationship, all persons in the class share equally. The degree of relationship is determined by counting each person in the ascending line, up to a common ancestor, then each person down to the living collateral relative. The count must be taken in both the maternal and paternal lines. As in golf, the low score wins.

Finally, if there are no identifiable relatives, the decedent's estate passes to the State of Louisiana.

The order of succession of an intestate estate is illustrated in Chart #1.

IV. Why Do You Need a Will, or Any Other Estate Planning?

There are a number of things addressed in your will and other estate planning documents that are not covered solely by the laws of intestacy.

A. You need a will to do any of the following:

1. Provide for property to pass other than by the laws of intestacy:

a. To give your spouse more than a usufruct of your share of community property.

b. To extend the spousal usufruct beyond remarriage for the lifetime of your spouse.

c. To make particular bequests of special items.

d. To make special provision for the specific needs of your legatees, such as leaving property in trust.

e. To make bequests to persons other than your children.

f. To make charitable bequests.

g. To disinherit a child or other heir.

2. To waive collation

3. To name an executor.

4. To provide for independent administration of your estate.

5. To give authority to your executor to allocate assets of your estate.

6. To provide for or waive compensation to your executor.

7. To provide for special instructions for the sale or other disposition of property.

8. To name a tutor guardian for your minor children.

9. To maximize federal estate tax planning opportunities.

10. To address the order of succession in case of simultaneous death.

B. As discussed, a general, durable power of attorney is necessary to grant one or more persons the power to act on your behalf with respect to your financial, property, and legal matters. Without a power of attorney, your family might have to bring court proceedings to have you declared incompetent and to have a guardian appointed.

C. A healthcare power of attorney is necessary to grant one or more persons the power to receive confidential medical information, to discuss with your healthcare providers, and to make healthcare and medical decisions on your behalf.

D. A living will is necessary to provide instructions, if you wish to give them, for the withdrawal of life-sustaining procedures if you are diagnosed with an incurable, irreversible condition that will result in your death.

E. Trusts are useful to accomplish a number of specific estate planning objectives, such as having a trustee manage property for a beneficiary, and, in some cases, avoiding of probate. You should discuss any special circumstances that might warrant the use of a trust with your estate planning advisor.

F. Special planning is necessary to insure the continuance of an S corporation election that might otherwise terminate if an unqualified person or entity acquired stock ownership.

G. Real estate in another state will likely require an ancillary probate proceeding to be opened and conducted in that state. Advance estate planning can address and eliminate the need for ancillary probate proceedings.

H. Issues inherent in second marriages and mixed families need to be addressed by a will.

V. What Property is Covered by a Last Will and Testament, and What is Not?

A testament only addresses property that is subject to probate. Probate is the legal process to determine and accomplish the proper and legal transfer of property to the heirs and legatees of a deceased person. An "heir" is a person who is entitled to receive property under the laws of intestacy. A legatee is a person who is entitled to receive property pursuant to a testamentary bequest. It is easiest to understand what is subject to probate by first understanding what is not subject to probate.

The disposition of certain assets, often very significant ones, is determined by beneficiary designations. These assets include life insurance proceeds, annuities, retirement accounts, and trusts. These assets are controlled by the contracts and agreements that govern them, including specifically, the beneficiary designation. The beneficiary named will receive the proceeds regardless of any contrary provision in your testament. It is important to review beneficiary designations when you plan your testament to make sure the beneficiary designations align with your estate plan.

Some assets can transfer automatically, by operation of law, outside of the probate process depending on how they are titled. In states other than Louisiana, land might be titled as tenants in common with rights of survivorship, in which case, the ownership of the property automatically passes to the surviving co-owner. Most other states also allow for financial accounts to be set up similarly. However, Louisiana generally does not recognize this type of ownership, and only recently permitted limited use of survivorship accounts for certain depository bank accounts.

All property not otherwise controlled by beneficiary designation or by title is subject to probate and is subject to your testament. Such property includes real estate, most bank accounts, non-retirement brokerage accounts, closely held business and investment interests, vehicles, boats, household contents and personal effects.

Real estate located in another state also requires special consideration. Bequests of land or mineral interests located in another state made in your valid Louisiana testament will be respected. However, a Louisiana court does not have jurisdiction over property located in another state. The transfer of property located in another state will require compliance with the probate laws of that state. Therefore, an ancillary probate proceeding might be needed in that other state to deal with the property located there.

To avoid the need for ancillary probate proceedings, property in another state might be transferred before death to a trust, a corporation, or a limited liability company.

VI. How to Think About Making a Will

When you start thinking about making a will, ask yourself the following questions:

1. If I am survived by my spouse, what special provisions do I want to make for him or her?

2. If I am not survived by my spouse, how do I want to distribute my property to children?

3. What special bequests do I want to make of specific items of property?

4. Do I want to make charitable bequests?

5. If I am not survived by spouse or children, how do I want to dispose of my estate?

6. Could my estate be subject to death taxes? Yes, if the fair market value of the taxable estate is expected to be $5,450,000 or greater at date of death.

7. Do I need to make special provision for any of my legatees? Do I need to leave assets in trust?

8. Do I need to make special provision for the transfer or control of any specific assets such as interests in closely held businesses?

9. Who should I want to name as executor? Who should I name as a successor or alternate executor?

10. Who should I want to name as tutor guardian of my minor children? As a successor or alternate tutor?

11. How do I want to provide for any subsequently born or legitimated children?

12. If I leave property in trust, who will be the trustee? Who and/or how will a successor trustee be selected? When and how should property be distributed from the trust to or for the beneficiary? When should the trust terminate?

For a power of attorney, a healthcare power of attorney and a living will, ask yourself the following additional questions:

1. In whom do I have sufficient confidence and trust to appoint as my agent in a power of attorney? Also, will that person be available, willing and able to act on my behalf when necessary?

2. Should I name more than one agent in a power of attorney?

3. Who will be most involved in assisting me with my healthcare? In whom do I have confidence to assist me, and will that person be available, willing and able to assist me when necessary?

4. Do I want to give instructions withholding life-sustaining procedures if I am diagnosed with an incurable, irreversible, terminable injury or illness? If so, do I want nutrition and hydration to be administered intravenously or withheld?

VII. What are the Income and Estate Tax Considerations of Estate Planning?

Generally, an estate must exceed $5.45 million before it is subject to estate taxes. Each spouse has a $5.45 million lifetime estate tax exclusion. Therefore, a married couple should be able to jointly transfer up to $10.9 million of assets to non-charitable legatees before incurring any estate tax. The lifetime exclusion is indexed for inflation and is adjusted annually. It started out as a $5 million exclusion in 2011 and has increased to the current amount for 2016. Once the value of the taxable estate exceeds the applicable lifetime exclusion amount, the value of the estate in excess of the exclusion will be taxed at 40%.

If a spouse does not fully use his or her lifetime exclusion amount, the balance is generally available for use by the surviving spouse. For example, if a person dies with an estate valued at $4 million, the estate will not incur tax because it is fully sheltered by the exclusion. The $1.45 of unused exclusion can be transferred to the surviving spouse for use in the surviving spouse's eventual estate, Thus the surviving spouse in our illustration would then have a total exclusion amount of $6.9 million for use in his or her estate.

Estate tax planning usually does not benefit either of the spouses. Property bequeathed to a spouse is subject to an unlimited marital deduction, and no estate tax is paid on property gifted or bequeathed to a spouse. Therefore, it is easy to avoid all estate tax while either spouse is living simply by using the marital deduction. After your spouse's death, estate tax planning allows you to transfer property to your heirs and legatees at the lowest possible gift and estate tax cost.

The first step in effective estate tax planning is to have tax-efficient testaments that insure the maximum utilization of the lifetime estate tax exclusion amounts for both spouses.

The second, and more complicated part of estate tax planning is to dispose of assets while you are living. All property that you own or have an interest in at the time of your death will be included in your taxable estate. If you have a taxable estate (i.e. one that is valued in excess of the lifetime exclusion amount), the only way to reduce or avoid estate tax is to dispose of the property prior to your death. The lifetime estate tax exclusion, discussed above, can be used while you are living to shelter gifts from gift tax. Taxable gifts that utilize any part of the lifetime exclusion amount reduce the exclusion amount that will be available against the estate tax at death.

Making taxable gifts while you are living can be a way to reduce the overall gift and estate tax that might apply to your estate. Assets you give away while you are living should be those with the most potential to appreciate in value. By transferring these assets out of your estate, you also transfer the future growth out of your taxable estate.

There are several techniques for maximizing the use of gifts to reduce a taxable estate. First, make use of the annual gift tax exclusion. Gifts are subject to an annual gift tax exclusion amount that is currently $14,000. It is indexed for inflation and should go up for future years. You can make nontaxable gifts in each calendar year of up to $14,000 to as many persons as you wish. Because each spouse has an annual exclusion amount, parents can give each child up to $28,000 each calendar year.

Many gift planning strategies focus on lowering the taxable value of the gift. One technique is to give undivided interests in real estate or minority interests in corporations and limited liability companies. These corporations and/or limited liability companies might be created specifically for the purpose of facilitating gifting opportunities. Because undivided interest in real estate and minority interests in closely held entities are not readily marketable, their fair market value, and consequently, their taxable value, is diminished. Other techniques involve the use of special trusts that give a future interest in property. The donor reserves an income interest in the trust. This reduces the gift tax value of the property that passes to the other person. These trusts are identified by acronyms such as GRIT (for grantor retained income trust), GRAT (for grantor retained annuity trust), and QPRT (for qualified personal residence trust). These trusts are subject to requirements that require the assistance of an experienced estate planner to effectively utilize.

An income tax consequence of making a gift is that the donee receives the same tax basis in the property that the donor had at the time the gift was made. Therefore, if the property had a low basis in the hands of the donor, the recipient acquires the same low basis and will recognize capital gain subject to income tax upon the eventual sale of the property. Therefore, when selecting property to give, it is tax advantageous to give cash, which has full basis, or other property with relatively high tax basis compared to its fair market value.

Property passing through an estate receives an adjustment in tax basis to fair market value as of the date of death. This is often referred to as a “step up in basis” because that is most often the result of the adjustment. An alternate valuation date six months after date of death may be elected if the total value of the estate at the alternate valuation date is lower than at the time of death. The tax basis will be used to calculate capital gain on any subsequent taxable sale or transfer of the property. The higher the tax basis, the lower the capital gain, and the lower the resulting income tax liability will be. An advantage of Louisiana’s community property law is that the entire community receives a basis adjustment (a step up, if you will), not just the one-half share of the decedent spouse. Therefore, the surviving spouse of the community will receive a basis adjustment and will be able to sell assets with little or no capital gain.

Although the basis adjustment usually results in a step up, it could also result in a step down in basis. An income and estate planning consideration would be to sell depreciated assets prior to death, or to give the asset by gift to children prior to death. Doing so will either realize or preserve the income tax advantage of the capital loss that would otherwise be lost if the depreciated property were to pass through an estate.

VIII. How to Incorporate Charitable Giving into an Estate Plan

Any charitable intentions you have should be made part of your estate plan. In addition to the benefits of supporting those causes that are important to you, charitable giving has significant tax advantages. These tax advantages can be viewed as subsidizing your charitable giving. To get any tax advantage of a charitable gift, you must first confirm that the charitable organization is recognized as such by the IRS. You can do this by asking for a copy of the organization's tax determination letter obtained from the IRS, or you can look up their status on the IRS charity search website (https://www.irs.gov/charities-non-profits/exempt-organizations-select-check) or at Guide Star (http://www.guidestar.org/Home.aspx). You should confirm that the organization is recognized as a 501(c)(3) organization. You should also note whether the organization is classified as a private foundation, a supporting organization or a public charity. Churches are exempt from having to file for classification as a charitable organization. So if your favored entity is a church, it might not have a letter from the IRS. The lack of a determination letter for a church is not usually a problem.

If you make a contribution to a recognized charity or to a church, you are entitled to take a tax deduction for the amount of cash and the fair market value of other property given. To be deductible, any single gift of $250 or more must be confirmed by a contemporaneous receipt from the charity. Also, if you donate property, other than cash, with a value of more than $500, you must obtain an appraisal for the property.

Generally, you are entitled to an income tax deduction for the fair market value of donated property, other than tangible personal property. Therefore, it is advantageous to give appreciated property, such as stock or marketable securities to a charity. By doing so, you get a deduction for the full fair market value, and you do not have to recognize capital gain on the gift. Because of its tax-exempt status, the charity does not recognize any capital gain when it sells the property. Gifts of tangible personal property, such as artwork, are limited to the lower of the donor's basis or fair market value, unless the property is used by the charity for its exempt purposes (i.e. artwork displayed by a museum).

There are limits to the amount of charitable deductions you can take in a tax year. This is where it is important to know whether the charity is a public charity or a private foundation. Generally, cash contributions to public charities are limited to 50% if your adjusted gross income. Cash contributions to private foundations are limited to 30%. Contributions of appreciated property, such as stock or marketable securities to public charities are limited to 30% of your adjusted gross income while similar contributions to private foundations are limited to 20%.

Special tax rules allow for contributions to be made to tax advantaged trusts such as charitable remainder trusts and charitable lead trusts. With a charitable remainder trust, you create a trust and name a charity as the principal beneficiary. You then name yourself or one or more other persons as income beneficiary with a specified amount of income to be paid to the income beneficiary at least annually. You get an income tax deduction for the remainder value of the property contributed to the trust. The amount of the deduction is discounted from the fair market value of the contributed property to adjust for the income interest that goes to the non-charitable income beneficiary. The factors to use for this calculation are supplied by the IRS. You can contribute appreciated property, such as stock and marketable securities, to the charitable remainder trust without having to recognize capital gain. The trustee can then sell the property, again without you or the trust having to recognize capital gain. The full value of the contributed property is then available for investment and production of income. There are variations on the charitable remainder trust that allow trust investments that may limit the income produced in earlier years and generate more for distribution in later years. Therefore, a charitable remainder trust may be used for a combination of retirement and charitable gift planning.

The charitable lead trust is the inverse of the charitable remainder trust. With the charitable lead trust, you typically name your heirs as the principal beneficiaries and a charity as the income beneficiary. The charity gets an income stream during the term of the trust, and the remainder of the trust assets pass to your heirs at the termination of the trust. You do not get an income tax deduction when you make a gift to a charitable lead trust. The estate planning strategy of the charitable lead trust is that the value of the property contributed to the trust is removed from your taxable estate, and the taxable value of the remainder interest that ultimately goes to your heirs is reduced or possibly eliminated. This technique allows you to potentially transfer significant value to your heirs with little or no gift and estate tax cost. The benefits of a charitable lead trust for estate tax planning purposes are subject to calculated risks that must be carefully evaluated and understood before this technique is utilized.

Another way to make a gift to a charity, while retaining an income interest, is to purchase a charitable gift annuity from the charity. With a charitable gift annuity, you make a gift of cash or property to the charity and the charity agrees to make payments to you annually or more frequently, of a set rate of income. You get a tax deduction for a reduced value of the gift to the charity. Not all charities offer charitable gift annuities because of the financial risk to the charity in making the annuity payments.

In addition to contributions while you are living, you can name a charity in your testament, or as the beneficiary of a life insurance policy. To make such a bequest or designation, it is important to know the correct legal name for the charity. Charitable remainder trusts and charitable lead trusts can also be incorporated into your testament. Bequests to charities made in your testament do not provide any income tax benefits, but they are deductible from and reduce your taxable estate. There is no limit to the estate tax deduction that can be taken for bequests to charitable organizations.

Making a charity the beneficiary of an IRA or of another tax-deferred retirement plan can have significant income tax advantages to your heirs. Instead of bequeathing a sum to a charity payable out of your probate estate, name the charity as the beneficiary of an equivalent share of a retirement account, and leave the probate assets to your heirs. The distributions from the retirement account would be subject to income tax if received by your heirs, but not if received by the charity. The probate assets received by your heirs are not taxable income to them. By using the retirement account in this manner the charity receives the full value of your intended bequest and more goes to your heirs.

About John McDermott: A partner with Taylor Porter, John McDermott serves as the Chair of the Tax and Estate Planning and Administration practice, and has more than 35 years' experience in his primary practice area of taxation, including business and individual income tax, payroll tax, franchise tax, excise tax, ad valorem tax, sales and use tax, and gift and estate tax. He has assisted tax-exempt organizations in making application for, obtaining, and maintaining status under IRC section 501(c). He has represented individuals, business entities, trusts, and estates with controversies before the IRS examinations and appeals, US District Court, US Court of

Appeals for the Fifth Circuit, the Louisiana Department of Revenue, the Louisiana Board of Tax Appeals, and parish and municipal taxing authorities. Before pursuing the practice of law, John practiced in the tax department of an international CPA firm for five years in New Orleans and Washington, D.C. He is a Board Certified Tax Law Specialist, Louisiana Board of Legal Specialization, and he is a certified public accountant.

About Taylor Porter: Founded more than 100 years ago in the state capitol Baton Rouge, Taylor Porter is "Louisiana's Law Firm" and one of the oldest, largest and most respected law firms in Louisiana, with a diverse range of local, regional, national and international clients in the most complex transactions and litigation across a variety of industries. As a full-service, general law practice with more than 70 attorneys, Taylor Porter's capabilities cover the complete spectrum of civil law, including state and federal trial and appellate practice.