

**Let's Play Family Feud  
or  
Why Estate and Retirement Planning is for Everyone**  
**Alex White, Jesse Richardson, and Leon Geyer**

Starting family fights is usually not at the top of anyone's to-do list. In fact, many people go to extreme measures to avoid family conflicts. But a vast majority of Americans are unwittingly setting themselves up for the mother of all family feuds. How can that be? The following 10 actions can turn any family meeting into a prize fight.

**Do not draw up a will**

- ⌘ Sad to say, but a lot of arguments stem from how a deceased loved one's assets are divided. Lack of a will is a great way to get the bickering started.
- ⌘ 52 percent of Americans die without a will, and many wills are out of date.

**Write your own will**

- ⌘ Lawyers are too expensive, right? Buy a kit from the office supply store and do it yourself! If you write your own will, not only will your estate likely be required to hire an attorney, but each of your heirs will too. Guess who ends up with your estate? You got it, the lawyers.

**Keep your will a secret from family members**

- ⌘ Do not let your final wishes be known until you are gone. Better yet, do not tell anyone that you have a will, or where it is located—maybe it will turn up during probate, but maybe it will not.

**Do not draw up a living will (Advance Medical Directive)**

- ⌘ A loved one is terminally ill and in a coma. What would the stricken family member want to do? Which family member makes the decision to continue or discontinue the life support system? Lack of a living

will can suddenly thrust that decision upon a family member who is unwilling or unable to make it.

**Fail to give someone power of attorney**

- ⌘ Dad is mentally or physically unable to care for himself. Who has the authority to make day-to-day decisions for Dad? Believe it or not, you may have to sue Dad to have him declared incompetent, just so you can take care of him.

**Do a power of attorney without consulting with family members**

- ⌘ Great way to encourage sibling rivalry and hard feelings. If you appoint one child, you will hear: "Mom always did like you best!" Sometimes it is best to appoint just one child as power of attorney. However, if you choose to appoint just one child, be sure you discuss this with the rest of the children beforehand. Appointing all of your children as power of attorney can be bad because they may not be able to come to a consensus about how to handle decisions. Appointing all children jointly can be even worse since it requires that all agree before any action can be taken.

**Do not organize or keep accurate records of your assets, insurance policies, etc.**

- ⌘ Make your heirs search and dig through boxes of unorganized receipts and policies to try to sort out your estate.

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## **Delay retirement planning until you are ready to retire**

- ☞ “Retirement is a long way off in my future. I have plenty of time to get ready. I’ll start investing for retirement later.” If you are not financially prepared, which son or daughter are you going to move in with during your retirement?

## **Believe that Social Security will pay for all your retirement living needs**

- ☞ In many cases monthly Social Security benefits are not enough to cover basic living needs, like rent, groceries, or utilities. Again, which child will you live with during retirement?

## **Invest your retirement savings in extremely safe investments (CDs, savings accounts)**

- ☞ “Who cares about inflation? It is just some economic nonsense. I want to make sure my money is safe.” But the money will not grow as rapidly as in some other types of investment.

## **Think that estate planning and retirement planning are only for the wealthy and old**

- ☞ Think again! The earlier you start, the less headaches you will have, and the lower your tax liability will be.

If more than four of these actions sound familiar to you, consider yourself a master at starting feuds. If two or three of these actions describe you, you are off to a good start in detonating a family situation. The good news is that it is not too difficult, or too late, to change. The key is to start taking estate planning and retirement planning seriously (regardless of your age or wealth) and to start the planning process now.

As a simple example of why you should start planning now, consider the following: A 17-year old only needs to invest \$1 per day (or \$30 per month) at normal interest rates to retire with \$1 million at age 65. But many Americans do not think about retirement until age 55. A 55-year old who has not started investing for retirement must invest \$145 per day (or \$4,350 per month) to retire with \$1 million at age 65.

Estate and retirement planning is an important process that helps you prepare for your future. Think of the costs involved in estate and retirement planning as paying for an insurance policy against future family feuds. Attorneys’ fees to clean up after-the-fact amount to much more than the cost of properly planning your retirement and estate. Remember, “Prior Planning Prevents Potential Problems.”

## **Available Tools**

Retirement and estate planning can be extremely complicated—partly because of the vast number of tools available and partly because Congress and the State legislature

constantly amend and revise the laws surrounding these tools. Some of the more important tools for estate and retirement planning include power of attorney, wills, living wills, and individual retirement accounts.

### *Power of Attorney*

A power of attorney is perhaps the most important estate planning document. Your spouse or child may not automatically handle your affairs if you become disabled or mentally incompetent. Normally, a court proceeding determines incompetency and appoints a guardian. Many family feuds center on whether the family member is actually incompetent. If the family resolves the incompetency issue, the question of who should be appointed guardian often creates even more intense controversy. Add to these emotional costs the financial costs of the proceeding, which start at a couple of thousand dollars even in a simple, uncontested case, and you have a major family feud.

Power of attorney solves these issues simply and inexpensively. The power of attorney appoints a person or entity (the “agent”) to carry out acts on behalf the person making the power of attorney (the “principal”). A *general power of attorney* grants the agent broad powers to the agent to sign checks, make decisions, and do almost anything the principal can do. Unless otherwise stated, a general power of attorney is *nondurable* and ceases upon the legal disability (incompetency) or death of the principal. However, a *durable general power of attorney* survives legal incapacity and is effective even if the principal becomes incompetent. Therefore, a durable general power of attorney provides inexpensive insurance against incompetency, usually preventing the need for a guardianship proceeding. The holder of the power of attorney is entrusted to act as you would. If questions or potential problems arise, the court may oversee the acts of the agent to ensure they are proper.

### *Will*

A will is a legal document that describes how you wish to distribute your estate upon your death. Urban legend holds that the state gets your property if you die without a will. While this legend has no basis in fact, state law determines who will get your estate if you die without a will. This state-determined distribution may not match your wishes.

A will allows you decide many important issues such as who would be appointed guardian for your minor children or who administers your estate. Without a will, the state decides who administers your estate. If no one steps forward within a certain time, virtually anyone may administer your estate, and the court may appoint anyone to raise your minor children.

Most importantly, a will allows you to decide who will receive your property within certain legal bounds. For example, a spouse is entitled to a certain percentage of your estate. You cannot disinherit your spouse, but you can disinherit your children and make sure some charitable organization gets their share.

Although the temptation is great to write your own will using either a kit or information from the internet, such temptation should be resisted. Reflecting the complexity of today's society, even an attorney who is not knowledgeable in wills and estates should not draft even the simplest of wills. Mistakes often prove very costly, both in money and in thwarting your wishes.

Attorneys' fees to prepare a will are relatively inexpensive. Actual cost varies depending upon the complexity of your estate and geographic location. However, will preparation costs are much less than the legal and professional fees that can be incurred to clean up the mess resulting from a self-drafted will. Often all the heirs will hire separate attorneys, as will the estate. The cost of this family feud can quickly devour the assets of the estate.

### *Living Will*

A living will or, more accurately, an advance medical directive allows you to set forth, in writing, your wishes in the event that you become comatose or vegetative with no hope of recovery. You may direct that pain medication be given, but that your life not be artificially prolonged. Alternatively, you may dictate that doctors make every effort to prolong your life under all circumstances. An advance medical directive may also command that another course that lies between these extremes be taken. In other words, the advance medical directive makes your wishes known prior to the actual decision time.

In addition, you have the option of appointing someone to make medical decisions for you if you are unable to make such decisions. This portion of the advance medical directive, if chosen, is a *limited* power of attorney allowing the agent to make only medical decisions for you.

The decision of whether to have an advance medical directive and how to cast the directive if you decide to have one is very personal. Only you can determine whether and how to proceed on this very difficult and emotional issue. By making your wishes clear, in advance and in writing, you may save your loved ones much agony and strain during an extremely difficult time.

### *Individual Retirement Accounts (IRAs)*

Simple fact: your Social Security benefits probably will not be enough to cover your basic living needs during your retirement years. Therefore, you should take steps to prepare yourself financially for retirement. IRAs are one possible tool. A traditional IRA allows you to invest up to \$2,000 per year. Depending on your household income and participation in other retirement accounts, your annual contribution may be tax deductible, so that you might be able to reduce your annual income taxes by investing in an IRA. The earnings of your IRA grow tax deferred until you withdraw the funds. Consequently, you are pushing your tax liability into the future when you may be in a lower marginal tax bracket. In short, traditional IRAs allow you to lower your annual income taxes, defer taxes until the future, and generate much needed capital for your retirement years. The earlier you start, the better off you will be when you retire.

A Roth IRA allows you to invest up to \$2,000 per year after taxes—your annual contribution will have no impact on your income taxes each year. However, as long as you own the account for five years, the earnings of the Roth IRA are tax free—you will owe no income taxes on the earnings. Roth IRAs are especially powerful tools for the younger generation.

### *Tax-Sheltered Annuities (TSAs)*

Several tax-advantaged retirement programs are funded by employees rather than employers. These programs are called tax-sheltered annuities or salary reduction plans. Examples of such programs are 401(k), 403(b), and 457 plans. Most of these programs work by automatically deducting funds from your paycheck and investing these funds in a selection of investments. Like Traditional IRAs, these contributions are tax deductible and the earnings of your account grow tax-deferred until withdrawal. In some cases your employer may match your contributions, up to a specified limit.

### **Who to involve?**

Your estate and retirement planning team should, at a minimum, include an attorney and **you**. In addition, if the complexity of your finances and estate warrant, you might want an accountant, a certified financial planner, and possibly an insurance agent. You and your professionals should work together to come up with a plan that fits you and your needs. Communication between all involved parties (including your spouse and your family members) is crucial to building a successful estate and retirement plan.

## What is next?

1. Take stock of your present situation.
2. Decide upon your goals and objectives.
3. Choose professional help.
4. Evaluate several alternatives to help you reach your goals.
5. Select the best program.
6. Review the plan periodically.
7. **Do it now.**

Estate and retirement planning is not a job for amateurs and that is why we strongly encourage professional help. However, many people will ask, "How will I know what to ask? How will I know if the professionals are giving me good advice?" To help you answer these questions and to help you get the planning process started, a series of publications devoted to estate and retirement planning: *Managing Prosperity: Estate and Retirement Planning for All Ages* is being developed for Virginia Cooperative Extension (VCE). This series contains basic introductions to the main estate and retirement planning tools. It will help you understand the language of estate planning and ask the right questions of your planning team. Contact your local VCE office for more information about this series or go to the VCE website at [www.ext.vt.edu](http://www.ext.vt.edu), Information Resources, Financial Management. The following publications will be helpful:

448-060, Traditional IRAs  
448-061, Education IRAs  
448-062, Roth IRAs  
448-063, Building You Financial Team, Financial Planners

These publications and many others can assist you in understanding terms and concepts related to retirement planning and writing wills. Planning ideas can assist you and save you time and money by addressing issues before you meet with the professionals.

### Notices

**\*\*Please** notify the REAP office if your address changes or if you know of anyone who would like to be added to our mailing list.

**\*\*How to reach us:** REAP, Department of Agricultural and Applied Economics 0401, Virginia Tech, Blacksburg, VA 24061; by phone: (540) 231-9443; by email: [reap01@vt.edu](mailto:reap01@vt.edu); or on the web at <http://www.reap.vt.edu/reap>

**\*\*Watch the Rural Virginia Prosperity Commission** website for dates and locations of Regional meetings. Be part of improving Rural Virginia by your attendance and input at these meetings.



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