



## Your Initial Estate Planning Meeting: What to Keep in Mind

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Is it time for your first meeting with an estate planning attorney? We fully understand that the initial meeting with an estate planning attorney can be a stressful event.

However, we have found that our clients often feel more comfortable if they know what to think about before the meeting begins and what items they should bring with them to the initial meeting. In fact, most estate planning attorneys prefer to have as much of the information listed below *before* the initial meeting. This gives the attorney time to tailor that first meeting to the client's specific needs.

To best prepare, clients should think about their estate planning goals generally and gather relevant information and documents to assist the attorney in implementing an estate plan that accomplishes those goals.

### **What to think about**

Before attending your first estate planning meeting with an attorney, clients should give some thought to the following issues:

**1. Personal Representatives/Trustee** – One of the most important decisions you will need to make as part of your estate plan is determining who you wish to administer your estate upon your death.

You will need to name a person or persons to handle your affairs and distribute your assets in accordance with your wishes at your death.

**2. Power of Attorney and Medical Directive/Patient Advocate Designations** – Another very important decision you need to make is who you wish to step into your shoes to handle both your finances and health care in the case that you become incapacitated.

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### **PRACTICE AREAS**

Agri-Business

Business Succession Planning

Estate Planning



**a. Power of Attorney** – A power of attorney is a written document in which you delegate to another person, your attorney-in-fact, the power to make financial decisions on your behalf. A durable power of attorney continues in effect even upon your potential incapacitation. Additionally, you can choose whether the power of attorney is given immediately or only upon your incapacitation.

Your power of attorney can be given broad or limited powers depending on your preferences. Therefore, it is important to choose your power of attorney wisely, seeking someone who is trustworthy, responsible, and in tune with your wishes.

**b. Medical Directive/Patient Advocate** – In addition to determining who you wish to serve as your power of attorney, you should determine who you wish to designate as your patient advocate. Your patient advocate is empowered to make medical decisions on your behalf when you become unable to participate in those decisions yourself. For example, you can give your patient advocate power to consent to or refuse medical treatment, or arrange for care in a hospital or nursing home.

**3. Disposition of Assets** – You can expect your attorney to discuss your assets and what you wish to happen to them upon your death. Often, clients leave their assets to their family members and close friends. You can give specific items or amounts of money to named beneficiaries, you can give percentages of your estate to named beneficiaries, or you can give a combination of both percentages and specific items.

In addition to naming beneficiaries, you should also consider who you would like to receive your assets in the event that your primary beneficiary predeceases you.

**4. Succession Planning** – Business owners need to plan for their estate even more than the average person. If you are a sole proprietor, the most common form of agricultural business ownership, then it is important to set forward a clear plan for what should happen to the business when you die. If you want to pass on the business, it is important to think about beginning to delegate and prepare a successor who wishes to take on that role.

**5. Minor Children** – If you have minor children, there are a few additional questions you should be prepared to address:

**a. Inheritance** – If you have minor children, the money you leave them will need to be managed for them until they reach either age 18 or the age you designate for distribution.

You should consider whether you want to leave that inheritance to your children outright when they reach the age of 18 or if you want greater control over the management of that money, which can be achieved by holding the inheritance in a trust for the benefit of your children until they reach an age that you deem appropriate for them to receive some or all of their inheritance.

If you want your children's inheritance to be under greater control in a trust, you should consider who you want to manage that trust.



**b. Custody/Guardianship Considerations** – Michigan law allows residents to appoint a guardian for their minor children in writing and for the court to honor a guardianship appointment.

In the event that the child's parents predecease the child you will need to carefully think about the life and circumstances of the potential guardian and their ability to adequately care for any minor children.

**6. Family Information** – Be prepared to give your attorney information about your family, including full names, ages, and contact information for your spouse, children, stepchildren, and grandchildren. In the case that your parents, siblings, or other extended family members are involved in your estate plan, their information will be needed as well.

**What documents to bring**

In addition to the many things you should be thinking about leading up to your initial estate planning meeting, there are also some tangible documents you should gather and bring to the meeting as well.

These documents will allow your attorney to create an estate plan suitable to your specific situation and goals:

1. Any existing estate planning documents you have executed prior to the meeting.
2. Current deeds to any real estate you own.
3. Organizational documents for any business in which you hold an ownership interest.
4. Life insurance information, including the type of policy, the ownership, and the company who provides the insurance and beneficiary information.
5. Retirement savings information, including but not limited to 401(k)s, 403(b)s, 457s, IRAs, TSPs, inherited retirement savings, and any potential pension information.
6. Non-retirement asset financial information including bank accounts, investment accounts, stocks, bonds, and U.S. Treasury notes.
7. Information regarding inheritances, including any current or anticipated inheritances or any current or future interests you may have in a Trust.
8. Up-to-date Personal Financial Statement if you have one available.

If you have more in depth questions about what to have in place when meeting with your estate planning attorney, please contact a member of Foster Swift's estate planning team.