



Estate Planning Pitfalls

**The Twelve Most Common Threats to
Your Estate and Your Family's Future**

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Carolina Family Estate Planning

The Twelve Most Common Estate Planning Pitfalls to Your Estate and Your Family's Future.

Plus, Discover the Steps You Need to Take to Have the Peace of Mind that Your Family and Your Assets Are Fully Protected.

This book will open your eyes to some of the most common threats a family's wealth and well-being face and why most "traditional" estate plans fail to adequately protect against these major risks.

Reading this guide may save your family months or years of unnecessary pain, thousands of potentially lost dollars and countless headaches. With this book as your guide, you will learn why taking care of these matters is so important (and how easy it is to do).

Estate planning and asset protection planning are about protecting you, your family, and your assets in the event of your death, disability, or incapacity. Though people often confuse estate planning with estate tax planning, they are not the same thing.

Estate planning, which includes planning for estate taxes (or rather, planning to minimize estate taxes), is really about taking care of the people you love, even after you are no longer here. This means knowing your family and your assets would be taken care of exactly as you want them to be if anything happens to you.

In this Guide, you will learn:

- **The 12 most common threats** your estate faces...and how simple it can be to avoid these common threats through proper planning.
- **A strategy for ensuring your estate plan not only protects against these threats now, but also continues to do so for your lifetime and generations to come.** Imagine having the peace of mind that your family is fully protected.
- **Why estate planning isn't something you "do" once and then never look at again...**and a formal process for ensuring your plan is reviewed and updated on a regular basis so it always reflects your life, finances, and the law and will work when it is needed.
- **How failing to properly plan could cost your family hundreds of thousands of dollars unnecessarily.** Did you know that probate and estate taxes are totally voluntary? With proper planning, you can save your family stress, headaches, delays, and thousands of dollars.
- **Why ignoring long term care planning could cost your family tens or hundreds of thousands of dollars.**



I hope this guide helps enrich your family's lives.

To your family's health and happiness,

Jackie

Jackie Bedard

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Founder of Carolina Family Estate Planning

Threat #1: Financial Immaturity and Irresponsibility

Are your children as good with money as you are?

Let's get down to business and talk about Threat #1. You've worked hard to provide for your family. Over the years, you've saved and invested wisely. But what about your heirs? Are they good with money? Are they investment savvy?

For most heirs, an inheritance is the largest amount of money they've ever been responsible for in their lifetime and many are not prepared to handle the responsibility.

In fact, most inheritances are gone within two to three years due to financial irresponsibility, immaturity, and other influences. You see this "quick money" scenario all the time with lottery winners, professional athletes, and entertainers. Within years of coming into money, they are plagued by creditors, tax problems, or indulgent lifestyles.

Think about how much you would be leaving behind if you were to die today—bank accounts, real estate, retirement accounts, life insurance, etc. How much would that be? Who would you want it to go to?

Would it make a huge impact on their financial life? How well do you think they'd handle it?

Even if you consider them to be financially responsible, what external pressures might arise? Who would come looking to them for a loan, gift, handout, or bailout? And if they're married, how would their spouse handle it?

NOW WHAT?

Think about your loved ones, and ask yourself:

- Do they need the money?
- Are they ready to handle the money?
- Who can help them handle the money?
- How can I help them prepare now, so they'll be ready to inherit it later?
- Are they willing to listen to advice?
- Who will they turn to later on for advice?
- Should I introduce them to my trusted legal, tax, investment, and insurance advisors?

Threat #2: Marriage and Remarriage

One of the biggest risks to wealth is marriage.

Life events filled with joy and love for some, can have serious financial consequences for others. Consider the following examples:

Remarriage. Bob and Susan always dreamed of passing their wealth down to their two children. Bob passes away and a few years later, Susan marries John. Because of improper planning and failing to obtain professional legal assistance, Susan titles all of her assets (including what Bob left to her) jointly with John. Susan suffers a stroke and dies a few weeks later. Where do the assets end up? They all pass to John, whose will eventually leaves them to his own children. Bob and Susan's children are effectively disinherited.

Rights of a Surviving Spouse. Change the above scenario slightly. Let's assume instead that Susan did not title everything jointly with John and had executed a will leaving everything to Bob and Susan's children. The problem? Under North Carolina law, as a spouse, John can claim a minimum amount from Susan's estate, even if Susan's will disinherited him. Under North Carolina law, John is entitled to 1/3 of the estate.

Children from Prior Marriages. Now consider Jeff and Sandy, who met and married in their 50s. They both have children from prior marriages. During the marriage, they save and invest wisely, and their estate grows. They always intended that their wealth would be split between both of their sets of children. Sandy passes first, leaving everything to Jeff. When Jeff passes, his estate plan, which hasn't been updated in years, leaves everything to his own children. And in effect, Sandy's children are disinherited.

Big Spender Spouse. A frugal person can have his or her wealth squandered by a new spouse who is a big spender. This could apply to both your surviving spouse and your children.

Unequal Finances. Gary and Jane met in their 60s and fell in love. Gary has saved and invested well over the years and intends to pay college tuition for his grandchildren and leave both his children and grandchildren with a nice inheritance. Jane, on the other hand, has struggled financially for years, living paycheck to paycheck. Gary's children are concerned. How will Gary protect his financial stability after he and Jane get married?

NOW WHAT?

To avoid these problems:

- Obtain a premarital agreement before getting married.
- Keep your assets separate after marriage.
- Carefully plan your estate, including asset titling.
- Update your estate plan regularly, but especially after the first spouse dies.

Threat #3: Divorce

Would you bet your life's savings on the strength of your child's marriage?

As we saw with Threat #2, without proper planning, even successful marriages can have disastrous effects on your estate and your family. What if it's not a successful marriage? How confident are you that your child's marriage will survive for life?

Your Married Child Gets Divorced. Suppose at your death, your son is happily married. You leave a nice inheritance to him. Like most couples, they hold their assets in joint accounts. So when your son receives the inheritance, he puts it into a joint investment account with his wife. But sometimes money changes people. A year later, his wife files for divorce. How would you feel about the court giving half of your inheritance to your ex-daughter-in-law in the divorce proceeding?

Child Marries After Your Death. Maybe when you set up your estate plan, your child wasn't married so the possibility of divorce wasn't even on your mind. At your death, you leave your daughter a generous inheritance. A couple years later she marries, but divorces another year or so later. Again, how would you feel about the court giving half of your inheritance to your ex-son-in-law in the divorce proceeding—someone you may not have ever even met? The potential for divorce is a risk to your estate whether your child is still a baby or already grown and has children of her own.

Your Spouse Gets Divorced. Perhaps you are widowed and decide to get married again. Unfortunately, things don't work out and a few years later, you get divorced. Will the court split your savings (including your inheritance from your first spouse) with your ex? North Carolina presumes that if you commingled your assets, then you intended to give half of the money to your spouse. Will you be able to convince a judge otherwise, or will your ex walk

away with a large chunk of your savings, thereby significantly depleting the estate you had intended to leave to your children?

NOW WHAT?

- Leave your children's inheritance in a lifetime asset protection trust to ensure that the funds are not mingled with a spouse and lost in a divorce.
- Require a child to sign a prenuptial agreement prior to taking distributions from the lifetime asset protection trust.
- If you remarry, obtain a prenuptial agreement and keep assets separate.

Threat #4: Disorganized Finances

Without your help, how long would it take your family to make a complete list of *all* of your assets and debts?

If you had to sit down right now and make a list of all of your accounts, debts, and account and contact information for each and every account, how long do you think that would take? Now imagine your family trying to do it without your help. How long would it take them? Would they find everything? How frustrating would it be for them?

For married couples, it's not uncommon for one spouse to manage the household financial affairs. Poor financial organization or communication during your life can create significant burdens and headaches for your family after your death or disability.

Naming the Wrong Beneficiaries. Do you have recent, written confirmations of the beneficiary designations for every single life insurance policy, annuity, retirement plan, and brokerage account? It's not uncommon for an account or policy to be missed when updating beneficiaries after a birth, death, marriage, or divorce. How long has it been since you double-checked them? If you have an estate plan, were your beneficiary designations reviewed to make sure they would achieve the intended results as part of your estate plan? Disorganized finances may lead to the wrong people receiving your assets after your death.

Undoing your Plans. If you have a comprehensive estate plan, then you may think you've taken care of everything, but did you know that if your assets are not titled properly and your beneficiary designations are not updated, your wishes may never be carried out? For example, let's assume you set up a trust that will eventually leave everything to your children after your spouse's death, but your life insurance policy only names your

spouse as a beneficiary, rather than your trust. Upon your death, the life insurance proceeds will be paid directly to your spouse and will not end up in the trust as you originally intended (refer back to Threats #2 and #3 for why this could be an issue). Or, perhaps you set up a trust for estate tax planning purposes, but did you know that if your assets aren't owned properly, you might still end up paying estate taxes? (See Threat #6 for more on estate taxes.)

Guardianship During Disability. If your assets are not titled correctly and your estate does not provide for disability planning, your family may have to resort to a guardianship proceeding in court if you become disabled. In a lot of ways, a guardianship proceeding is very similar to the probate process we'll discuss in a moment—it's a public proceeding, it takes too long, and it costs too much. Plus, it's leaving matters in the hands of a judge who doesn't know you or your wishes. But, with proper planning and organization, court involvement can be avoided and the matter can be handled privately by people you trust in accordance with *your* wishes and instructions.

Probate. If your assets are not titled properly or are disorganized, it may lead to the unnecessary involvement of the probate court at your death. Just like with disability, proper planning and organization can prevent court involvement and allow matters to be handled privately by the people you choose. Many families that set up trust-based plans with the intent of avoiding probate wind up in probate anyway because assets were not properly titled or beneficiary designations were not kept up to date.

Why would you want to avoid probate? Because in general, it costs too much, it takes too long, and it's totally public. Your assets will be tied up for months (often 12 to 18 months or longer) during the probate process with your family having extremely limited access to them (if at all!). Plus, when you add up all the various fees—court fees, legal fees, executor fees, appraisal fees, accounting fees—it's not uncommon for the probate process to cost anywhere from 2% to 5% of the total estate.

Lost Money. Lost or misplaced information about a life insurance policy, stock certificate, bonds, or other assets could result in a loss of wealth. Locating lost assets can be extremely difficult. Contrary to popular belief, there is not a “central database” of life insurance policies, and it’s not uncommon for insurance companies to change names over the years due to company mergers. Worse still, if your family doesn’t know the assets exist, they will not pursue them, and they may be lost forever.

Headaches, Stress and Frustration. At the very least, disorganized finances and the inability of your family to quickly assemble an accurate list of what your assets creates unnecessary stress and frustration for your loved ones and increases the likelihood of potential conflicts within your family.

NOW WHAT?

How do you avoid the risks of disorganized finances?

- Keep an updated list of your income, assets, and debts.
- Review beneficiary designations on a regular basis and keep an updated list of all of your beneficiaries.
- As much as possible, consolidate your assets with one financial advisor and one financial institution.
- Convert paper stock certificates or bonds to online brokerage accounts to avoid the risk of losing the paper originals.
- Many accounts are managed online and can be difficult to access upon one’s death. Make sure your family has all the necessary account numbers, usernames, and passwords. For safekeeping, you may want to consider storing these in a safe deposit box or fireproof safe—but make sure your family knows where that box or safe is and how to access it!
- Work with an attorney who will not just draft your estate plan, but actually help you implement it. This includes “funding” assistance to coordinate your financial plans and ensure proper titling of your

assets and up-to-date, complete beneficiary designation forms that work in harmony with the rest of your estate plan. Most estate planning attorneys do not offer funding services, but it is a critical component to ensuring your estate plan will work when it's needed.

- Take all steps necessary to avoid court involvement for probate or guardianship proceedings. This requires using a living trust-based estate plan and confirming that all assets are properly funded to the trust and beneficiary designations have been updated.
- Maintain your estate plan by participating in a formal maintenance program offered by your estate planning attorney. With such a maintenance program, your attorney's office should maintain updated lists of your assets and review them on a regular basis, preferably annually and your attorney should keep copies of all asset documents and be available to answer questions about coordinating your legal and financial plans.

Threat #5: Nursing Home or Long Term Care Expenses or Medical Costs

Have you planned for future nursing care?

Many seniors fear having their life savings eaten up by nursing home, long-term care or medical costs. A high percentage of families will eventually face this issue. In fact, statistics indicate that 70% of people age 65+ will require long-term care at some point, and 20% will require long-term care for five years or longer!

Don't Make These Mistakes About Nursing Home Expenses:

- Thinking that basic estate planning tools, such as a will or revocable living trust will protect your assets from nursing home costs.
- Failing to purchase long-term care coverage if you can afford it. (Good news—there are now many options for long-term care coverage beyond traditional long-term care insurance!)
- Failing to take advantage of applicable veteran's benefits.
- Thinking you can give your assets away to your children when it comes time to enter a nursing home. If you wait, it may be too late to do so effectively. Preplanning will increase the likelihood that you'll be able to preserve your assets.
- Failing to consider that, even if everything does go perfectly and you qualify for the government to pay for a nursing home (with Medicaid), your options will be much more limited. Planning ahead gives you alternative options such as receiving in-home care or living in a nice senior community of your choice.

NOW WHAT?

To prepare for nursing home and long-term care costs, you need to:

- Decide if you can afford to pay for care yourself without jeopardizing the inheritance you want to leave to your family.
- Research and consider purchasing long-term care coverage.
- Consider new financial tools that provide long-term care benefits as part of an annuity or life insurance policy.
- Consider leveraging your IRA to create long-term care protection.
- Consider using long-term Medicaid planning to rearrange assets years before you need long-term care.
- As a last resort, using “crisis” Medicaid planning to protect a portion of your assets if you are facing immediate nursing home needs. Generally it’s not too late to protect some of the assets.
- Start planning as early as possible for the possibility of nursing home care. The earlier you start, the greater your options, the more wealth you can protect, and the better the living arrangements you will be able to choose.

Threat #6: Death and Taxes

The federal estate tax exemption (i.e., the amount you can pass free of estate taxes) for 2018 is \$11.2 million dollars. This will lead many to the conclusion that they don't have to worry about tax planning as part of their estate planning. However, keep in mind that the exemption is scheduled to revert back down eventually, and who knows what Congress will decide to do from one year to the next? Savvy clients will incorporate backup estate tax provisions within their planning.

It's worth keeping in mind that your real estate holdings, bank accounts, retirement accounts, business interests, and *life insurance policies* and any other assets you have control over, all count as part of your taxable estate. Many families have much larger estates than they realize, and while they've never thought of themselves as "rich," their estate could be stuck with a huge tax burden.

Especially for married couples, even if your combined estate is currently below \$11.2 million, it may be prudent for your plan to include back-up estate tax provisions. Why? The exemption is *per person*, meaning that both husband and wife have their own exemption. However, due to several nuances of how the estate tax code actually plays out, most couples miss out on one of their exemptions. Your estate plan needs to include appropriate provisions to make sure that both exemptions are used effectively if needed. This might not be a big issue while the exemption is \$11.2 million, but when it is ever reduced in the future, it will be critical, as the estate tax rate has varied between 35-55% over the past several years.

Let's look at a quick example to put the estate tax into context assuming that there is a \$1 million exemption and 55% estate tax rate:

Bill and Mary own a home worth \$400,000. They each have \$600,000 of life insurance and between them; they have another \$700,000 in bank accounts, retirement accounts, and investments. Thus, for estate tax purposes, between the two of them, they have \$2,300,000 of taxable assets. Bill and Mary each have an estate tax exemption (think of it like a “coupon”) for \$1 million. This means that without proper planning, at least \$300,000 will be left exposed to estate taxes at a rate of 55%—that’s \$165,000!

And it gets even worse, because most couples either don’t plan their estate properly or title their assets properly, they only end up using one of their estate tax “coupons.” For Bill and Mary, this would mean leaving \$1,300,000 exposed—a \$715,000 tax bill!

The estate tax rules and rates have changed many times over the years. If your plan is more than a couple years old, it may be at risk of failing due to recent changes. You see, recent increases in the estate tax exemption brought along with them certain changes to the income tax rules (specifically to the “step up in basis rules”). As a result, some estate plans are not properly equipped to handle the income tax rule changes. Other plans may not work as intended because they relied on the estate tax exemption as the ‘trigger’ for funding certain sub-trusts. Without the trigger, certain beneficiaries may be accidentally disinherited.

BOTTOM LINE:

Don’t leave your estate plan to the fickle whims of Congress. If you’re married and your estimated gross estate exceeds \$1 million, make sure your estate plan includes back-up estate tax planning provisions.

What if your plan is older and included past estate tax planning?

Many older plans that included estate tax provisions may be able to be simplified due to changes in the estate tax rules over the past several years. If your plan was established prior to 2009, then chances are that it may include estate tax provisions that could be stream-lined to make things easier for your surviving spouse.

Threat #7: Avoidable Income Taxes

Will your heirs pay unnecessary income taxes?

Many estates and heirs pay unnecessary income taxes, or pay it sooner than necessary. Several types of assets have built-in income tax liability or risks, including:

- Retirement accounts such as IRAs, 401(k)s, 403(b)s, or 457 plans
- Tax-deferred annuities
- Appreciated property, such as stocks or real estate

How such assets are handled during life and after death can make a huge difference on the amount of income taxes paid. Without proper planning, even the most modest estate may face tens of thousands in additional income tax earlier than necessary.

Not only can proper planning avoid unnecessary income taxes, but at an early stage, good planning can set up a tax-free or tax-reduced inheritance that can be a legacy for your family for decades after you're gone.

Protecting Stepped-Up Basis

When you pass away, the issue isn't just estate taxes—there can be many income tax consequences too.

First, let's talk about the importance of stepped-up basis. Clients will often ask me about giving their house, stock, or other assets to their children while they are still living. Many think that this would be a good way to avoid probate and make sure that the assets stay protected if the client should ever need nursing home care. Unfortunately, this can be hugely detrimental from an income tax perspective due to something called "stepped-up basis."

Here's how a step-up basis works:

Let's assume that you buy stock for \$10,000—for tax purposes, that is your “basis,” or the amount that you paid for the stock. You hold the stock for several years, over which time it grows in value to \$15,000. If you were to sell the stock, you'd have a taxable gain of \$5,000. If, however, you were to die, and you left the stock to your child as part of your estate, your children take the stock at a “stepped-up basis” of the date-of-death value of \$15,000. This means that if your child immediately sells the stock for \$15,000, they would not owe any income taxes! While this is just one small example, as you can imagine, with an entire estate that might include a home and various stock holdings, that can add up to significant tax savings.

Don't forget about your IRAs and retirement plans!

If you're like a lot of our clients, you've probably been very careful with saving for retirement and you're probably fairly well-versed on the basic retirement income tax rules—that for traditional IRAs, you can start taking withdrawals penalty-free at age 59.5; the withdrawals are treated as ordinary income for income tax purposes; and at age 70.5, you have to start taking Required Minimum Distributions. But how familiar are you with what happens to those IRAs when you pass away?

The handling of IRAs and the mistakes that are frequently made are the topic of a whole separate book that I've written, but estate planning can make a huge difference in maximizing your IRAs for your beneficiaries, including:

- Making sure your beneficiary receives a much larger inheritance by leveraging the income tax deferral over a long period of time;
- Protecting the inherited IRA from future lawsuits, creditors, bankruptcy, and divorce;
- Providing contingency instructions in the event that your surviving spouse remarries—make sure that the funds still make it to your intended

beneficiaries rather than a new spouse;

- Providing bloodline protection to ensure that the remaining balance of the account goes to your grandchildren or whomever you intended, rather than your in-laws;
- Leveraging part of your IRA to purchase life insurance that can pass to your beneficiaries income tax free; and
- Leveraging part of your IRA to potentially provide lifelong long-term care coverage.

NOW WHAT?

Here are some questions you should consider:

- Do you know what the value of your estate would be if you passed away today? If the answer is no, you need to find out.
- If you're married, do you have an estate plan that takes advantage of the favorable tax rules regarding spouses? And if you do, have you coordinated your estate plan and your financial plan so that your assets are titled properly and your estate plan will work as intended?
- If you have an older estate planning (2009 or older), do you know whether it can be simplified due to recent changes in the estate tax rules?
- If the combined balance of your traditional IRAs, 401k, and similar accounts is above \$500,000, has your estate planning attorney talked to you about income tax planning strategies to maximize the accounts?

Threat #8: Lawsuits and Creditors

Is your children's inheritance protected from lawsuits and creditors?

Let's start off with a story:

Bob passes away, leaving savings, investments, life insurance, and a home to his wife, Susan. A few months after Bob's death, Susan is driving to the supermarket. Distracted by her ringing cell phone, she doesn't see the stop-light change to red and she goes through the light and hits a school bus coming through the intersection.

In a blink of an eye, Susan's world is turned upside down and her financial future goes from secure to disaster. A lawsuit is filed. How much will a court award to the families of the children hurt or killed in the accident? Probably quite a bit more than her auto insurance coverage and more than Bob left her at his death. Susan will likely be left bankrupt.

A car accident is just one of several types of liability facing your family members. Other liability risks include (1) someone being injured on your property; (2) professional liability for a family member that is a doctor, lawyer, accountant or other professional; (3) business owners facing a downturn because of the economy; (4) potential bankruptcy due to medical bills; or (5) frivolous lawsuits that have no merit but are expensive to defend.

You can protect your family. If you could do something to protect your spouse and children from the threat of lawsuits and creditors, would you do it? Once an inheritance is received by a loved one, they will be unable to protect it. The best way to protect their inheritance is for you to do it now by setting up these protections prior to leaving the assets to them (this is called 'asset protection planning').

How does it work? By leaving the inheritance to your family in an asset protection trust (what I sometimes call a “school bus trust”), your family can still be financially supported by the trust, but the assets will not be exposed to lawsuits or creditors if tragedy strikes.

NOW WHAT?

Consider the following:

- Protecting an inheritance is a great benefit to your family, not a punishment. Sometimes people initially think of this as “pulling strings from the grave” but with careful planning, an estate plan can be designed to afford your loved ones protection from lawsuits and creditors while still allowing them the benefit from the assets.
- Talk to your children about how you intend to leave them their inheritance so they understand why it is set up the way that it is. Ask if your estate planning attorney will meet with your adult children to explain to them how the plan works and what protections it affords them.
- Remember that this sort of asset protection for your children is not related to whether or not they are good at handling money. Their wisdom (or lack thereof) is an entirely different threat. Here we are talking about outside threats that may be beyond their control.
- Remember that while the odds of these threats may appear small, they can be catastrophic and would devastate your loved ones’ finances. A modest investment in planning today can avoid potentially catastrophic consequences.

Threat #9: Lost Government Benefits for Special Needs Family Members

When you leave assets to those you love, will it cause them to lose their government benefits?

You have dreams about how you want to benefit your children and grandchildren, but what if one of them has special needs and may be eligible for government assistance for medical care or other needs? Is it okay if your wealth is depleted to pay for those benefits instead of receiving government assistance? This happens all too often when families don't plan properly.

Recipients of government benefits. Do you have a loved one who is receiving government benefits?

- Elderly family members in a nursing home
- An adult child with a mental illness
- A grandchild with a developmental disability

If you leave assets to any of these individuals, it's possible that your loved ones won't really be benefited by the inheritance if your plan is not set up properly. Instead, receiving the inheritance may make your loved ineligible for their much needed assistance such as Medicaid or other disability programs and your hard earned savings will be used to repay the government or to pay for future services that the government would have otherwise provided for.

Eligibility for college financial aid. This is another area families often overlook. Have you considered that the way you leave assets to your children or grandchildren might impact their ability to qualify for college financial aid?

NOW WHAT?

- **Talk between generations:** In addition to making sure your own estate plan and financial plan will not make family members ineligible for government assistance, make sure the rest of your family, including older generations know about the risks. It will not help your special needs individual if you go out of your way to set things up properly, but then a well intentioned uncle or grandparent leaves an inheritance directly to the special needs family member. Coordination between generations and having a unified family strategy are the keys to proper planning.
- **Coordinate financial and legal plans:** Make sure your professional advisors are working together. For example, don't purchase a life insurance policy to help your disabled child without first discussing the legal options with your estate planning attorney. If you are setting up a supplemental special needs trust, be sure to consider how it will be funded and how it will impact the inheritance going to other family members.
- **Update your plan regularly:** In addition to normal legal and financial changes that impact your estate plan, keep in mind changes in your family member's medical or mental status and the government benefits that they receive. Be sure to update your plan on a regular basis in accordance with these changes.

Threat #10: Transitioning a Business or Farm

Do you want your business or farm to continue on after your death?

If you own a business or farm, you know how much of your blood, sweat, and tears went into it. Starting it, building it, growing it. Or maybe you inherited a family business and had to deal with stresses created by those who came before you? Will you smoothly pass along the business to the next generation, or will the business end with you?

Without planning, your business or family farm could end. Why?

- The uncertainty and disorganization at your death or disability could cause a loss of customers or business relationships.
- Unnecessary estate costs, such as probate, estate taxes and legal fees could cause the sale or closure of the business or farm.
- Family conflict that arises because of a lack of clarity in your plan for the succession of the business. Both children involved in the business and those who aren't may feel that they have been treated unfairly.
- Insufficient liquidity if a bank loan or line of credit is closed at your death.
- One child is forced to buy out the others in order for the business to continue. If he or she can't raise the funds, the family may have no other option but to sell the business to a stranger.

Which of these challenges do you face?

- One child works in the business, while the others do not. How do you reward the faithful worker without being unfair or alienating the other children?

- What if the child working with you isn't yet able to handle the business without you? If you were gone tomorrow, what would happen?
- You would like to retire, but don't know how, since no one else is ready to step up and run the business.
- None of your family members have an interest in the business, or you have a professional practice, and none of your family members are licensed in your profession.

NOW WHAT?

Plan for a smooth transition of your business or farm by:

- Making sure you have a team of trusted professional advisors to help you understand available options—this may include legal, tax, financial, investment, or business consultants.
- Initiate discussions with your children, both those involved in the business and not involved, to see what their expectations are. Their expectations will either make your job easier or make it apparent that special care is needed.
- Realize that you will not be around forever. If you plan well today, the business will run well without you later. If you don't plan well, the business may not run at all.
- If your business will be transitioned to someone outside of the family, be sure that you not only have a clear business succession plan but that your family understands how the business succession plan operates. Be sure that your successor has sufficient savings or life insurance on your life to be able to buy out your interest if necessary.
- Consider both your financial and non-financial goals. What impact will the transition of your business have on your family, employees, customers, and the community?

Threat #11: Expensive Business or Corporate Mistakes

Are you and your business exposed to unnecessary risk?

As a business owner, you face a host of liability risks. What actions have you taken to protect your wealth from business downturns, changes in your industry, personal guarantees on bank loans, lawsuits for something your employees do, or messed up projects that go bad despite your best efforts? The risks run both ways:

- What problems in your business could result in personal liability, thus putting your personal wealth at risk?
- What personal liabilities could you suffer that might result in someone taking your business?

NOW WHAT?

Consider the following:

- Step back from the day-to-day business and determine what parts of your business are disorganized or in chaos.
- Consider not just whether your business is succeeding, but *how* it is succeeding. Is the success sustainable or are there pitfalls ahead?
- Ask yourself—if you were to have a liability issue, where would it be most likely to arise?
- Do you have any blind spots regarding the management of your business? What have you been ignoring? You may need to ask someone else in business for help answering this question.
- Check out the following list of common business mistakes that can lead to unnecessary liability.

COMMON BUSINESS MISTAKES

Do you know which ones you are making?

Proper set up of the business entity:

- Are you operating as a corporation or limited liability company (LLC) to limit personal liability?
- Have you considered using an LLC from another, more favorable state, such as Delaware or Wyoming to provide better asset protection?
- Are you serving as your own registered agent, risking that official notices will be forgotten, misplaced, or intercepted without being properly handled?
- Have you considered a Series LLC to compartmentalize liability of different properties or parts of your business?

Organizing assets, following through on structure:

- Are you undoing your liability protection by failing to honor the corporate formalities, such as holding annual corporate meetings and maintaining regular minutes and record-keeping responsibilities?
- Are you commingling your personal and business finances?
- Are you renting personal real estate for business purposes without documenting it with leases, payment of rent, etc.?
- Are you mixing risky assets with safer assets in the same LLC or corporation, such as holding rental farmland in the same corporation as a contracting business?

Planning for the future:

- Do you have an updated shareholder agreement, operating agreement, or buy-sell agreement to govern when a co-owner wants or needs to leave the business?
- Is the buy-sell agreement properly funded with life insurance or some other financial means?
- Do you have enough liquidity to address business succession expenses such as estate taxes, buy-out costs, continuity of operating funds, loss of bank line of credit after death of co-owner, etc.?
- Do you have an updated estate plan that includes a full consideration of your business ownership and how it impacts your family and estate plan?

Nuts and bolts protections:

- Do you have adequate liability insurance, both in amount and scope of coverage?
- Are you following applicable employment laws (pay, vacation, sick time, rate of pay, termination) and paying your employment and payroll taxes?
- Have you considered whether electing S-corporation status will save you income taxes?
- Are you paying income taxes or sales taxes that could be avoided?
- Are your trade secrets and intellectual property protection (such as trademarks, copyrights, customer lists, pricing guidelines, etc.)?
- Do you use non-compete agreements or restrictions for key employees with inside information in case they ever leave the business?

Threat #12: Procrastination

The biggest threat of them all...

The biggest threat to your assets and family members is your own procrastination. Have you identified risks that you and your family are facing? Which ones are your biggest concerns?

Don't ignore them. Don't rely on the mistaken "hope" that you can just ignore or out-manuever the potential threats coming down the road.

Take steps to avoid them now. The most important step now is to decide to take immediate action. Your family will thank you later, and you can have peace of mind knowing it has been taken care of. Don't worry that you don't know exactly what to do or when to do it. That's what estate planning and asset protection attorneys are for, to guide you through the minefield of risks and the options for addressing those risks.

NOW WHAT?

You need to take some immediate action. Here are three things you can do immediately:

Attend a Seminar. These seminars are presented on a regular basis by Carolina Family Estate Planning. During these seminars, we'll discuss the keys to an effective estate plan that will work when it's needed and will address the 12 threats. To check available dates and reserve your seat at our next seminar, call (919) 694-4780 or register online at <https://seminars.carolinafep.com>

Schedule a Vision Meeting. During this one-hour educational meeting, we'll discuss your current estate plan (or lack thereof), planning goals and objectives, and available planning options.

Our office can only accommodate a limited number of new clients per month. This allows us to devote sufficient time and attention to our existing clients. While we understand this creates some inconvenience for people wishing to become clients, you'll be grateful for this policy when you become a client.

Don't procrastinate—call our Client Services Coordinator at (919) 694-4780 to reserve your Vision Meeting now!

Read on. Read more about some of the ways Carolina Family Estate Planning is different from other 'traditional' estate planning law firms and how our process works on the next page.

HOW WE'RE DIFFERENT

To explain how we're different first requires us to discuss what the "traditional" experience with an attorney is like. If you've worked with an attorney in the past to prepare estate planning documents, this will probably sound familiar:

You would start by calling their office, telling the receptionist that you need a will or a trust (maybe you're not really sure, but you need *something* to protect your family), and you ask "How much is this going to cost?" You're told that each of the firm's attorneys charges on an hourly basis, and the rates vary depending on the attorney's experience level. They'll tell you about it in more detail at your meeting.

At the meeting, you sit down with an attorney and he asks you, "Well, what would you like to do?" You might say, "I just need a will." Or, "I know I need to do something for my family, but I don't know what. That's why I'm here: I need your advice on what to do." This typically results in the lawyer trying to explain what you can do—but in terms of complete legal jargon, making things seem complicated and confusing. But, you figure the lawyer knows what he's doing, so you nod your head as if you understand everything, because after all, the billing clock is running!

Because you want to protect your family, you have the lawyer prepare the recommended documents. You go in to sign them and then feel relieved that everything has been taken care of. You take your documents home, stick them in a drawer or filing cabinet, and then you never think about them again.

You vaguely remember your attorney saying something about a change to your bank account, so you head to the bank, but when you get there, you realize you're not sure what you're supposed to do. You call your lawyer's office, only to get his voicemail, so you leave a message and then head back home. Hours or days go by before you get a call back from your lawyer, but by then you're busy with something else, and you never get back to the bank to change the account.

A couple weeks later, you receive something in the mail from your attorney's office. A letter explaining how to change the bank account? A thank you note, perhaps? No, it's a \$75 bill for the 15 minute phone call!

A few months or years later, you read something in the newspaper about some tax law changes and wonder if they affect your plan, but you figure that if it were something important, your lawyer would send you a letter to let you know your plan needed to be updated.

Your life changes—maybe you have a child, or you get divorced or remarried. Maybe you start a new retirement account at your new job or buy some additional life insurance. Your plan—which was not cheap—continues to collect dust, and you start to wonder whether your assets and family are protected. You consider giving your attorney a call, but then you remember that \$75 bill you received last time you called to ask a question.

So now what? You forget about it. Your plan continues to sit in the drawer without any of the necessary changes or updates being made to it, and there it will stay until you either become disabled or die, and your family goes looking for it. Only, by then, the plan is so outdated that it doesn't do what you wanted it to do.

Your family will probably have to deal with the court system for either a guardianship hearing (if you're disabled) or a probate hearing (if you've died). They'll discover that the process is expensive, time-consuming, stressful, and public. A large amount of the inheritance you had hoped to leave your family is spent on taxes, legal fees, court costs, and family disputes.

Our Team Helps Prepare You and Your Family For Life

Our firm is different in many ways! We understand that you're busy, your life is evolving, and you want to know that you've made the best decisions for your family and that your plan will work when your loved ones need it the most.

To start, our practice is based on relationships. We recognize that every cli-

ent is different and has unique goals and objectives. So our first focus is to learn about you, your family, your goals, concerns, and fears.

That's why we've thrown out the hourly billing clock! We work on a flat-fee basis because we want our clients to be able to talk with us, without feeling rushed or worrying about the size of their bill.

We place a high value on education. Not degrees and class rankings, but real, applied learning about how we can continue to best serve our clients. That means when we're not seeing clients, we're attending classes, reading about changes to the law, what other practices are doing, and new planning techniques. We're listening to estate planning podcasts, teleconferencing with other attorneys, and thinking about new ways we can help your family get the most out of life. It also means we're constantly investigating and employing new technology to do more for our clients.

This educational and proactive approach extends to how we work with our clients. We use a lot of stories and plain English, so you will know and understand the planning options that are available to you. We discuss, using real world examples, how we can design a plan that will protect and care for you throughout your lifetime and how it will continue to protect and care for your family after you're gone.

Together we'll create a plan that best fulfills your dreams and goals. We'll help you arrange your affairs in a way that is both personally satisfying and that meets your unique objectives—all while accomplishing substantial savings for your family in the long run.

We also ensure that the most important details of your plan are fully carried out, so that your plan continues to work throughout your lifetime. This begins with ensuring that all of your assets and accounts are titled properly. Did you know that a lot of estate plans will not work as intended, because the assets are not titled correctly? That's why we have a "funding coordinator" to ensure your assets *are* titled correctly, so a simple, common oversight doesn't result in a long, expensive probate process.

We also have affordable maintenance and education programs, which will help keep your plan updated year in and year out, as well as give you access to our office for additional guidance. We *encourage* clients to call us or email us with their questions or concerns!

We believe in a team approach, working collaboratively with your other professional advisors. We will work closely with your financial advisor, accountant, insurance agent, or other advisors to ensure that your entire financial plan works together and is suitable for your situation.

Finally, we believe that your wealth is far more than what's in your bank account. You are also the sum of your values, experiences, dreams, and interests—who you are and what's important to you. More than ever before, people are expressing that the intangible assets in their life such as character, faith, morals, and life lessons are dramatically more important to them than their financial assets. Yet many admit that they haven't done a good job of incorporating these intangible assets into their plan, even though they'd like to. How much do you know about your grandparents' values? How they felt about you? What they learned during their lifetime? If you're like most people, the answer is, unfortunately, very little.

We look forward to meeting you and crafting your life and estate plan, so you we can help care for your family's future!

OUR PROCESS

We believe in creating estate plans that work. Our process is designed to ensure your confidence that your plan addresses your personal needs, each step of the way. Every decision is reviewed with you multiple times, yet the entire process takes only a few weeks.

Vision Meeting

The planning process begins with an initial meeting that we call the Vision Meeting. This is a one-hour educational meeting to discuss your goals and planning options available. It's also an opportunity for us to meet, just your family and our firm, so we both can determine whether there is a good fit between us.

During the meeting, we'll walk you through exactly what your loved ones would need to do, and what would happen to your assets, if something were to happen to you. If you don't like the outcome of the status quo, then we will discuss planning options and alternative solutions until we find a plan that fits your needs.

Assuming there is a good fit between you and our firm, we'll help you choose a planning level and fee that are right for you (we have multiple planning levels available to accommodate your needs, and the fees are all-inclusive, so there are no surprises). We will then schedule your Counseling & Design Meeting, the next stage of our process.

The Counseling & Design Meeting

There are two goals of the Counseling & Design Meeting:

- To gain an understanding of who you and your family are.
- To begin designing a plan tailored to the needs of you and your family.

We'll begin by asking you questions about you and your loved ones, with the goal of gaining a deeper understanding of the dynamics of your family life. Our role is that of a listener. We are not here to judge, render opinion,

or interrupt you. We may ask a few clarifying questions along the way, but otherwise, the floor is yours. Of course, everything discussed is confidential and privileged, so it's a safe environment for open discussion.

When you are ready, we'll begin designing your plan. The planning options are virtually infinite, but together we'll use the information gathered in the first half of the meeting to design a plan that best fits your goals, objectives, and family dynamics. Along the way, we'll use stories and examples to educate you about the relevant points of law and guide you through the design process.

For some clients, we will need to schedule a second Counseling & Design Meeting to complete the design process. About two weeks after the completion of the Counseling & Design phase, you'll return to our office for your Signing Ceremony and Funding Meeting.

Signing Ceremony & Funding Meeting

We'll start the Signing Ceremony by reviewing your plan with you to make sure it fits just right and addresses all of your goals and objectives. Once we are both satisfied that it is complete, we will guide you through signing all of the various documents that make up your plan.

We see signing your estate planning documents as just the beginning of our relationship with your family. Next, our Funding Coordinator will guide you through the process of re-titling your assets and accounts, updating beneficiary designations, and other critical steps to ensure that your plan will work as intended. This is a critical part of the estate planning process that is often neglected. But if your assets are not titled properly, your plan will not work!

We will review your asset report with you to verify that all of your assets are transferred properly and that all of your questions are answered. We'll

continue to track the transfer of your assets until all the necessary actions have been completed.

At the conclusion of this meeting, we'll also deliver your final estate planning portfolios and review your asset book to verify that all of your assets have been appropriately titled.

What Happens After I Take My Estate Planning Portfolio Home?

After the initial planning phase is complete, the maintenance phase of your plan begins. We stay in regular communication with our clients via our print newsletter at no additional charge. And, if you participate in our affordable Maintenance program, you will have an opportunity to review your plan and the titling of your assets on an annual basis, to ensure your plan will continue to work. Plus, we will provide your family with a number of other valuable services.

MAINTENANCE

Estate Planning is a Process

Most people think of estate planning as preparing documents to say who gets what when they die. But creating those documents is not estate planning. Estate planning is a series of actions, changes, and functions about a result—providing enduring protection and succession of your entire wealth to your family.

An estate plan faces a myriad of changes. First, your personal, family, and financial situations are constantly changing. You may get married or divorced. Or maybe welcome a new child or grandchild into the world. You might purchase a new home or open a new bank account. Or start a new job and begin a new retirement plan in the process. Or you might purchase additional life insurance coverage. Your assets continue to grow and accumulate over time; your personal goals and objectives may also change.

Additionally, there is constant change in both tax law and non-tax law that impacts your estate plan.

Third, your attorney's experience and expertise—if you have a good attorney—should continue to grow. Your professional advisors should be continually improving through ongoing education and collected experience, and they should be regularly developing new tools, techniques and counseling resources to maximize the value of their counsel.

Because there are all these changes, you cannot expect a plan to accomplish what was intended if it never gets updated. In fact, the costs of failing to update you plan would typically be far greater than the costs of keeping it current.

As part of our affordable Maintenance program, we'll continue to review and revise your plan to keep it aligned with your goals as they grow and change over time. We'll perform annual reviews and regular updates to

make sure we keep abreast of any new developments in your life and the law, and we will work with you to adjust your plan accordingly.

We offer various program levels to accommodate the needs of our clients.

Our base level plans include services such as the following:

- Reviewing and updating your plan due to life and law changes, so it stays up-to-date, and your estate plan works!
- Reviewing your assets and beneficiary designations on an annual basis to ensure your plan will always work as intended.
- Word-processing changes made, as needed, to your existing documents.
- Priority access to our team for guidance and “one quick question” phone calls.
- All without hourly billing!

“I founded Carolina Family Estate Planning so I could make a real difference in the lives of my clients, ensure their plans would work, and be there for their families when they couldn’t be.”

-Jackie Bedard, Attorney & Counselor at Law

**Meaningful results come from a systematic process.
Don’t sell yourself short of getting a plan that WORKS!**

**If you’re ready to get started, call our Client Welcome
Specialist, at (919) 694-4780 to reserve your
Vision Meeting now!**

ADDITIONAL RESOURCES

Children’s Safeguard Planning Guide. Are you a parent with minor children? Then you’ll want to read this guide to discover the simple steps to ensuring the safety and care of your children; how to choose the right person to raise your children; and how you can make sure that everything you leave to your children stays in your family forever and isn’t lost to divorce, lawsuits or estate taxes. Request your free copy at resources.carolinafep.com

Visit our website to learn more. Visit www.carolinafep.com to learn more about estate planning, asset protection, and the keys to an effective estate plan that actually works when your loved ones need it. We’re always adding new materials, guides and resources so be sure to check back often.

TESTIMONIALS

Read what our clients have to say about Carolina Family Estate Planning:

“Several years ago, a dear friend died. She had been so generous and left me a gift of her investments. This legacy would change my plans for retirement and open even more possibilities for my family. The probate of her will took 18 months. The beneficiaries had little information about the process, progress, and almost no detailed information. Finally, with the help of my financial advisor, I began to organize my estate. Oh my! I had an estate. I knew I wanted to protect my loved ones from these long months of probate purgatory: step in Carolina Family Estate Planning! The whole process was very comfortable. From the office visits with muffins and hot tea that came with lots of information and guidance, to the easy homework of gathering asset info and changing names on accounts, to the [Priceless Conversation] CD we made on my final visit. The day I received my Trust Book (volume, tome, LOL), there was an amazing sense of relief and accomplishment.” - Nadine P., Raleigh, NC

“My husband and I were extremely pleased with the service and documents we received from CFEP! Jackie walked us through the process of creating our wills with great patience and understanding for us as new clients. She explained all our options and we felt we could make the best informed decision for our estate. Thanks to Jackie, we have peace knowing that our documents are expertly drawn and filed. Thank you CFEP!” - Amanda S., Garner, NC

“My wife and I hired Jackie to prepare our wills and provide estate planning services. We had never done this before and Jackie took us through the process with great care and attention to detail. We would definitely recommend her to any of our friends or colleagues.” -Warren G., Raleigh NC

“Jackie was very patient during our meetings. Wills and Durable Power documents are not fun things to discuss, but they are very important to have. Jackie walked us through each step, was kind, was understanding and was very helpful explaining all of the issues we faced. We have a sense of security knowing that we have these documents in place. I would absolutely recommend Jackie based on her knowledge and client service.” -Anonymous

“[My wife] and I want to thank you for the enjoyable experience we had this morning. As soon as we arrived, the welcome sign put us at ease and we felt like we were in a home type atmosphere, not a lawyer’s office. This feeling was amplified after Jackie opened the meeting with a brief history of the whys and hows of where she is today. The products and services offered were thoroughly explained and we were able to openly discuss the pros and cons of each and how they applied to our needs. We left the meeting knowing the decision we made met our needs. In closing, I would add that I will certainly recommend your firm to anyone I know needing estate planning services.” - D.W., Fuquay-Varina, NC

“Having the opportunity and pleasure to work with Jackie, has created nothing but positive influence in my clients and their families’ lives. Although my personal education from her has grown by leaps and bounds, her attention to detail as well as insight proves to be of the utmost importance to my clients and their complex situations. Ms. Bedard’s demeanor, objectiveness, and creativity are matched by few. What a team member!” -Adam W., Raleigh, NC

“[After attending one of our seminars:] This is an outstanding explanation of a relationship-based, counseling-oriented estate planning process. Excellent explanation of estate planning nuts and bolts—best I have heard in 15 years!.” - Financial Advisor, Cary, NC

“[I] would suggest that anyone with children definitely needs to not only think about attend [a CFEP workshop], but actually plan to use the services. I learned a lot about things I never thought about (i.e., probate and taxes), and the importance of pre-planning, short-term guardians to avoiding having my children placed in state custody.” -Kourtney O., Morrisville, NC

“The information we received was invaluable. We also appreciated the focus placed on need rather than cost. [I learned] how important it is to adequately protect our children through the use of both short term and long term guardians.” -Glen H., Holly Springs, NC

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ABOUT JACKIE

Jackie Bedard's estate planning practice, Carolina Family Estate Planning, is focused on guiding clients through the complicated, often confusing, maze of balancing family protection, wealth preservation, and cherished family values in the planning process.



Jackie determined early in her career that traditional estate planning, which typically only focuses on financial wealth, is far too limited and short-sighted. She believes estate planning should not just be about passing on financial wealth, but also should include preserving intellectual, spiritual, and human wealth—who you are and what's important to you.

Jackie is a member of WealthCounsel and ElderCounsel and has served as a board of director member of the North Carolina chapter of the National Academy of Elder Law Attorneys and on the board of directors of Guiding Lights Caregiver Support Center. She is a member of the North Carolina Bar Association and the Wake County Bar Association. Jackie was named by *Cary Magazine* as a 2015 Mover & Shaker for her contributions to the community. In October, 2015, she received a Superb 10.0 rating by Avvo, a legal rating system.



In 2017, Jackie was awarded Best Attorney in Cary Magazine's Maggy Award competition. Each year, Cary Magazine awards the Maggy Awards to area residents' favorite service heroes in Western Wake County, based on a tally of more than 11,000 votes.



Jackie earned her Bachelor's of Science degree in Economics at MIT and graduated law school *magna cum laude* in the top 7% of her class at the University of Richmond School of Law.

Jackie resides in Cary with her husband, Dan, and their two dogs, Nala and Nelly. Jackie also enjoys CrossFit, running, reading, hiking, cycling, music, and more.

To learn more about Jackie and to receive useful advice and information, please visit our website at www.CarolinaFEP.com



"I wrote this guide to help you and your family avoid some of the most common traps that I see families fall into all of the time. Traps that could have been significantly minimized, or avoided altogether, with proper planning"

-Jackie Bedard



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