**ESTATE PLANNING CONSIDERATIONS FOR THE CLIENTS: WHAT QUESTIONS SHOULD WE CONSIDER OR DETERMINE BEFORE SEEING AN ATTORNEY?**

The following is a flow chart of questions and considerations to review before making an appointment with an estate planning or elder law attorney prior to establishing a solid estate plan:

A solid estate plan consists of at least 3 separate documents: Durable Financial Power of Attorney (DPOA), Health Care Power of Attorney (sometimes referred to a "Living Will" or "Advance Directive" (HCPOA), and a Will and/or a Revocable Living Trust (RLT). The first questions to ask yourself are the following, in order to establish whether a will-based or trust-based estate plan is right for your needs (refer to separate handouts on will-based vs. trust-based estate plans):

If I/we died today, what would be the size of our (combined) estate(s)? This includes home, personal property, cars, boats, all cash accounts, stock and mutual fund accounts, life insurance, IRA and 401K accounts, **everything!** There is currently no federal death tax unless your estate exceeds $15 million dollars (doubled for spouses), and there is currently no Wisconsin death tax (and no inheritance tax).

Regardless of which estate plan you choose (Will or Revocable Living Trust), these are the further questions to ask yourselves:

Where do I want my property to pass when I die, or when my spouse and I are both gone? Equally to my children? What if a child predeceases me—then should that share go to his or her children (my grandchildren) if any, or back among my then living children? If I have no children, then to whom? To a charity or group of charities? If so, in dollar figures or percentages?

Who will be the designated person and alternate(s) to take care of the business of my probate or trust estate (Personal Representative or Trustee)? After my spouse and I are both disabled or pass away, whom do we trust to financially manage our assets, clean up and sell our home, if required, and do the book-keeping and other required tasks necessary to wind up our estate? If we create a trust for grandchildren within our documents, who will potentially be living long enough to be the Trustee for these trusts?

If we have minor children, or a special needs child, whom should we name as Guardian(s) for those children? (A specific type of Will is required if you have a Special Needs Child (SNC) in order to retain and not interrupt their government benefits. Because of this impact on benefits, a SNC should not be designated a direct beneficiary of life insurance,

annuities, retirement plans, or Wills without a specific type of trust is created under the document(s).

Do I/we want any monies to go to designated charities or church before passing to the children or other beneficiaries? If so, what dollar amount or percentage?

If I have minor children, or disabled child(ren), should their shares be held in Trust (within my Will or Trust) after I die? At what age should income and/or principal be distributed to or on behalf of my child(ren)? Should there be multiple ages to distribute principal? (Example: distribute the balance in the trust for the child (or grandchild) at age 23 and the balance at age 26, and so on). If I am creating a subtrust for minor grandchildren, would these amounts be the same? Trusts established in estate planning documents for children or grandchildren can be utilized for educational purposes, health, purchasing a home or business, and so forth. The makers of the document ultimately create the parameters around the trust created for minor children or grandchildren.

If my family experiences a catastrophe, such as the untimely death of our entire immediate family, who would then receive my/our estate? Would we want our parents to inherit from us if they were living in a nursing home and receiving long term care? Do we have nieces or nephews or god children who would benefit from our estate? Do we need subtrusts for minors?

Is there a special situation in our family (example: family farm or land) that requires special drafting in the documents, such as equalizing our estate between children but allowing one or two children the right to purchase the farm, land, or homestead at a certain price?

Where do we want our personal property to pass at death? Are there special items we want to designate to certain children or people in the family?

Is yours a second or third marriage situation? Are there children of each previous relationship? If so, a Marital Property Agreement might be required to "lock in" death provisions and protect all children involved.

Do you own real estate or a home out of the State of Wisconsin?

Do you pay your income taxes as a resident or domiciliary of another State?

Is it important for us to avoid probate after our deaths?

Contrary to popular opinion and belief, your estate does not revert to the State of Wisconsin unless NO BLOOD RELATIVES ("heirs at law") can be found. This situation is extremely rare.