

# Letter of Instruction: *The Missing Link in Estate Planning*

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If you worked with your estate planning attorney and financial professional to create and update a complete plan, including a will and other estate documents, congratulations! You took care of an important, often neglected need. However, a glaring hole, if left unattended, can cause havoc for loved ones you leave. A letter of instruction helps fill that gap, potentially heading off future confusion and estate disputes.

A non-legally binding document, this letter informs loved ones and other beneficiaries where to find your estate documents and other personal information. It also may specify who gets what personal items, which often have more sentimental value than actual financial value, how you want your final remains treated and even how guardians should raise minor children.

Even without legal weight, a letter of instruction is sometimes vital to maintaining family peace – especially where estates have accumulated many keepsakes. It also may communicate certain wishes and directions if you become disabled and unable to communicate.

Prior family communication is usually the best way to deal with these matters. But, in my experience, people have personal reasons to keep certain information, such as financial accounts, a social security number and trust documents, private until disclosure becomes necessary due to death or disability.

For example, you might leave fewer assets to one child in a will or trust to equalize previously unequal gifts of which siblings were unaware. Or you may not want children to know your medical wishes, such as do-not-resuscitate order, because you understand they will not like it and you would rather reveal this information when they need to know.

A letter of instruction communicates your intent regarding these and other situations. They may address everything from how to handle the division of keepsakes to where loved ones can locate your legal and financial documents.

It is easy to understand why so few have this letter when so many have no estate planning documents at all. A simple will, living will, healthcare directive and power of attorney are some of the documents included as part of a comprehensive estate plan. Yet, according to the 2011 EZLaw™ Wills and Estate Planning Survey, only 44% of respondents say they have any estate planning documents.<sup>1</sup>

However, the survey points out 53% of affluent people and 70% of people age 55 and older have signed at least one document.<sup>1</sup> Since we normally work with these demographic groups, we often discover they lack the final link to complete their estate strategies. That missing link is a letter of instruction, a roadmap to your legal documents and instruction manual detailing everything from your burial wishes to distribution of your keepsakes.

## **Immediate Tasks**

The EZ Law™ survey doesn't address a letter of instruction, which is among the easiest estate documents to create. This letter should address the following issues in the event of a disability or death, providing contact information wherever needed:

- The location of all your important documents, including estate planning documents and deeds.
- The name of your long-term care insurance provider and contact information to activate the benefits of the policy if necessary.
- Names of other insurance agents and policy information about life, health, disability, and property and casualty coverage.

- Your medical history, which serves two purposes. It may be needed along with a death certificate to prove that a life insurance policy owes benefits, or serve as vital information if you become incapacitated and must prove need for medical and long-term care insurance benefits.
- The name of local VFW or American Legion contacts, if you have veteran's death and burial benefits.
- Your centers of influence, including your attorney, financial advisor and accountant.
- Extras you request, including songs, charitable donation instructions and names of pallbearers.
- Instructions for disposal or burial of final remains, your preferred funeral home, and a deed and location if you already own a plot or other final resting place.

The last point sometimes produces familial disagreement, but written instructions can make your voice heard after you're gone. This is not a trivial issue. I had one client whose mother's ashes sat on a mantel for three years because loved ones could not agree where the mother wanted her ashes spread.

My advice: Talk this one through with your family before it's too late or, at least, make these instructions clear in a letter. Better yet, include your instructions in a legally binding document because no one can guarantee future disagreements won't occur.

### Transitional Tasks

After dealing with immediate tasks, those settling your affairs will typically need to have locations and contact information for the following:

- Guardians and a custodian for minor children. Provide comprehensive instructions including children's medical histories, schools and a list of the custodian's financial duties.
- Any business partnership, to later work out details for extracting your estate's share of ownership value.
- Employee benefits, including company-provided life insurance and retirement accounts.
- Prior marriage documents, which are essential if pensions and other benefits have multiple beneficiaries either designated by your or required by state law.
- Banks, investment brokers, and credit card companies, along with the types of accounts held by each. We typically include account numbers only in sealed documents so this important information doesn't fall into the wrong hands.

### Final Tasks

Dispensing final assets may take months and can be as simple or as detailed as you wish. For example, your attorney and financial advisor may handle all details, specified in an estate plan and a will. Or you may provide contact and other information for an executor or trustee to deal with these final questions:

- What business assets belong to your estate? How and when will they be distributed? Often, business planning documents dictate how a company's business succession and valuation may work as well as how a possible sale would occur?
- What will happen to your pets?
- Are any of your assets in someone else's possession?
- How and to whom will your estate distribute all assets, even those of little financial value?

The last question can be among the most sensitive to answer. Many people quickly think of items with financial value, such as wedding or engagement rings, when listing assets to distribute. However, we often find this list is far from complete. Any list should include **all** items in your possession. This includes assets with little monetary value, but potentially great sentimental attachments. Seemingly trivial things that don't matter to you might mean the world to loved ones. I know firsthand.

A client of mine made no provisions to distribute a set of teacups. We call these financially insignificant assets the *garden gnomes* because they have little to no financial worth. The teacups' sentimental value, though, was immense. Her daughters played with the cups as children and had priceless memories associated with them. Although they were inexpensive, they were the cups the daughters used when having tea parties as kids with their dolls, and both laid claim to them. Without any provision or prior discussion about how to distribute the cups, the family had a falling out over these seemingly insignificant items.

This is why we recommend our clients of any age discuss these issues with family early on. Put their decisions – and yours – into a letter of instruction which is easily updated if you want to adjust the list. If loved ones can't agree, we ask clients to consider holding a draft, as they do in sports. In this last-resort scenario, the oldest child begins the first round followed by children ranked by age. The youngest child starts the second round, which is placed in reverse order of the first round, and so on.

### **Putting It All Together**

We make drafting a letter of instruction easy by using a Microsoft Word template to encourage our clients to complete the document. Clients provide the information in Word or by printing our template, writing answers, circling what information applies to them and cross out what doesn't pertain to them. Finally, we modify our template with their information.

Next, we create a laminated wallet card with basic information including the names of a significant other, two more local contacts, a doctor, financial advisor, lawyer and basic medical information. We suggest clients place the cards in their wallets behind their drivers' licenses. This is essential should an accident or medical emergency prevent them from communicating, because the information on the card may be life-saving.

Finally, we facilitate a family meeting, held either in a client's home or in our office. Trusted friends, named by the client in a letter, may also attend if family lives a distance away. We briefly discuss the process, and then deliver the letter to each attendee so they all know where to go, what to do and most importantly who to call in an emergency. At this time we also give our clients their wallet cards and explain their intent and potential use to other attendees.

The meeting, which ideally includes dessert on us and coffee made by our clients, usually occurs at the client's home and takes no more than 30 minutes. This less sterile atmosphere is conducive to a good feeling, which should be natural after providing the information needed in this letter for loved ones.

### **Complete Your Missing Link**

If you don't have a letter of instruction, consider drafting one today. Your letter of instruction needn't be fancy or formal, but should tie up your important documents and provide instructions in a neat, easy-to-find package. While not a legal document such as a will or estate plan, which you should strongly consider drafting with the help of an estate planning attorney and qualified estate planner, it is a vital missing link to all your important information.

Don't let a set of play teacups – or other asset that seems insignificant to you – create family discord because you didn't provide explicit written instructions about how to distribute them. Talk to your family and other beneficiaries and consider drafting a letter of instruction today.

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<sup>1</sup>Source: EZLaw™ Wills & Estate Planning Survey for 2011, p. 5, copyright 2011 by LexisNexis, Inc. All rights reserved.

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