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Estate Planning Considerations for Women After an Unprecedented Year

For many women, a “what if?” situation leaves them in the dark with regard to finances and wealth. In the past, women played a more traditional role in their households.

By **Stefanie Pate and Melanie Cuddyre** | February 09, 2021 at 01:21 PM

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Stefanie Pate, left, and Melanie Cuddyre, right, of Leech Tishman Fuscaldo & Lampl. Courtesy photos

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The year 2020 was challenging for everyone. Parents assumed the role of teachers and tutors, family members became primary caregivers, loved ones were lost, and everyone had to adapt to the “new normal.” Areas in our lives that required additional support, and the need for improvement in communication with our families, friends and advisers were highlighted. Individuals were forced to ask the question: “What if?” What if something happened to me and my spouse, what if my business lost its leader, what if I had to take control of my family’s future?

For many women, a “what if?” situation leaves them in the dark with regard to finances and wealth. In the past, women played a more traditional role in their households. Women were responsible for homemaking and were less likely to be employed outside of the home. In 2021, while many women still choose to stay at home, that is no longer the expectation. Women are the primary or sole breadwinners in 40% of U.S. households. Additionally, four out of 10 U.S. businesses are owned by women. See, “Women & Wealth, Prosper Manning & Napier’s Guide to Financial Planning,” July 2020, at 15-17.

Despite this advancement, women continue to be less involved in estate planning and wealth management than men. If they have estate plans, married women are rarely included in their preparation, and are often simply told where to sign. Today, women are increasing their monetary contribution to their families, and generating wealth in their individual names. Yet 65% of women are less likely to talk about finances with friends than topics such as health or work issues. Why is this? Perhaps it is because women don’t know how to initiate these discussions or don’t understand the implications of a basic estate plan. Women both with and without an estate plan may not know the answer to their “what if?” questions. After a year that highlighted the lack of answers, now more than ever women should take control of their ability to answer that question.

A basic estate plan addresses many “what if?” situations. What if I am unable to make my own financial and health care decisions?

What if I become incapacitated? Included in a basic estate plan are a financial power of attorney, health care power of attorney and living will. A financial power of attorney allows an individual to appoint an agent to make their financial decisions if they are unable to do so. Individuals may consider their spouse, sibling, friend, or close advisor. A health care power of attorney allows an individual to appoint an agent to make their health care decisions if they are no longer able to do so. Individuals often choose someone who lives locally. A living will allows an individual to set forth their wishes with regard to their preferences for treatment and care when in an end-stage medical condition. This document outlines guidance for their healthcare agent and providers to follow while on a life support system.

What if something happens to me or my spouse? A will is a document in which an individual directs where their assets will go upon their death. The will may include specific bequests to individuals or charities, establish trusts, or divide assets into shares and distribute them accordingly. An individual also designates an executor or personal representative who is responsible for the distribution of assets, payment of

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taxes, and other administrative duties. Also important for many parents, a will allows you to designate a guardian for minor children. The guardian will be who your children live with, who emotionally supports them, and who cares for them until they reach the age of majority. For individuals who may have loved ones with a disability, any inheritance can be tailored to that person's specific needs. If that person receives or could receive government benefits in the future, proper planning can avoid any disqualification from those benefits.

A basic estate plan allows a person to make these choices for themselves. If the individual never executes an estate plan, then these important decisions are made by a court or pursuant to state law. Both of those scenarios may lead to unintended outcomes and can be avoided through the execution of the above estate planning documents.


Business owners should ask themselves "What if?" What if I am unable to run my business? Who will take over? What happens to my interest?

For business owners, a business succession plan will address those questions. An attorney will review the business's formation and governing documents, financials, and any existing estate planning documents of the business owner. By modifying those documents or existing estate plans, a business owner can determine who will fill their shoes when they are no longer a part of the business by reason of retirement, disability, death and more. Will it be existing co-owners, a family member, or a third-party? Selecting that person requires careful consideration of the nature of the business and its future objectives. A business succession plan may also provide for the buyout of an owner's interest. You worked hard during your lifetime, how will your interest in the business be monetized? Should you apply for women-owned small business certification? All of these decisions should be made prior to your death. Otherwise, existing governing documents or state law determine what happens, which may be unfavorable for everyone involved.

Working to answer some of these major "What if?" scenarios allows women to protect their future, their family's future and the future of their business. Women work hard every day. Whether they are tackling the role of homemaker or employed outside of the home, women deserve to take part in decisions related to their wealth and future. Meeting with an estate planning attorney and other wealth advisers provides opportunities to initiate these conversations. 2020 has shown women that now, more than ever, is the time to become an active participant in their estate and wealth planning. Engaging in the decision-making process eliminates some uncertainty so that the next time women are asked "What if?," they already know the answer.

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As more women become business owners and high-earning professionals, it is more important than ever for women to take control of their estate plan in order to achieve their financial goals and pass on wealth to the next generation.

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The ERA does not create additional procedures, although the absence of those procedures may make a statute or regulation unconstitutional.

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