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# LEGAL Focus

## UPDATE *on Retirement Benefits*

There are incentives to encourage us to save for retirement. Two of the most popular types of retirement vehicles are 401(k) plans and IRAs.

A 401(k) plan is a retirement plan that is funded by an employee's voluntary salary deferral and, under some plans, additional matching contributions from the employer. Contributions to traditional 401(k) plans are excluded from the employee's taxable income, with future withdrawals subject to income tax. Certain restrictions are placed on withdrawals until retirement age. Some employers also allow Roth 401(k) contributions, which are after-tax contributions that can be withdrawn tax-free, if certain conditions are met.

For 2010, the maximum amount of income you can defer to a 401(k) plan is \$16,500.00. If you are 50 or over, the maximum income you can defer is \$22,000. A 401(k) plan is often combined with an employer's profit-sharing plan. In 2010, the total maximum amount an employee can have contributed to his or her 401(k) and profit sharing plan is \$49,000 per year. If you

are age 50 or older, the maximum is \$54,500. An IRA is a single-person retirement account. Contributions can be made annually. For 2010, the maximum contribution is \$5,000. If you are 50 or older, the maximum is \$6,000. Income tax on interest, dividends and capital gains are deferred until withdrawn.

Contributions to a traditional IRA are tax-deductible if your adjusted gross income is below a certain ceiling and you are not covered by a retirement plan at work. Nondeductible contributions can still be made, up to the \$5,000 or \$6,000 annual limit. You can withdraw the nondeductible contributions at any time, and can withdraw your deductible contributions without penalty after age 59-and-a-half. You must start taking minimum distributions once you are age 70-and-a-half. Any distribution of your deductible contributions and the earnings of the account will be included in your taxable ordinary income when withdrawn.

Contributions to a Roth IRA are not tax-deductible, but earnings grow tax-free and are tax-free when you take distributions. Contributions to a Roth IRA can be made after age 70-and-a-half, and there are no required minimum distributions. You are not allowed to contribute to a Roth IRA if your adjusted gross income is in excess of certain phase-out amounts. For example, a married couple with adjusted gross income over \$176,000 cannot contribute to a Roth IRA. Conversions from traditional IRAs to Roth IRAs are now allowed for all taxpayers, regardless of income levels. The cost of conversion is that the deductible contributions and earnings of the traditional IRA will all be included in your taxable income in the year of conversion.

These retirement vehicles are not probate assets. At death the disposition is controlled by whatever beneficiary designation the custodian of the plan or account has on file. Your beneficiary designation should take into account the income and estate tax consequences of the designation.



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# How to Handle a Family Cabin

There are issues unique to shared ownership of recreational property: unequal financial ability of the adult children to pay expenses, scheduling conflicts, unequal effort toward maintenance, rental of cabin to non-family members, transfer restrictions, and succession provisions. In families where the parents' wish is to preserve the status quo to the greatest extent possible after the parents' death, a trust is just one of several legal entities that can be used to hold, manage, and transfer cabin ownership.

The main reason for using a trust to transfer ownership of a cabin is that it permits parents to make a gift of some or all of the interest in the cabin to adult children during the parents' lifetimes with the hope that the adult children will begin thinking of themselves as owners rather than as guests. The issues of maintenance and improvements, payment of expenses, and scheduling the use of the cabin are placed into a workable framework for the family decision-making. Trust ownership also allows the selection of a trustee, who can pay expenses from a central account, make day-to-day decisions, implement scheduling, and collect rent or assessments. Placing the cabin into a trust during the parents' lifetimes allows the parents the chance to see whether the arrangement is likely to be successful, and gives the parents the opportunity to speak with adult children. Trust ownership also allows other assets to be transferred to the entity to address the financial burden that ownership can place on adult children. In problem families

where the family dynamics are too stressed and dysfunctional, there is no entity or document that will overcome such serious discord among family members. Before decisions are made and implemented, the parents should speak with each adult child to determine whether the children share a common goal and their willingness to use the cabin in a shared ownership arrangement.

*The trust agreement is revocable but becomes irrevocable upon the incapacity or death of the surviving parent.*

Other alternatives for ownership transfer of the family cabin are:

- Ownership to pass via will or intestate succession or revocable trust distribution at death to adult children as tenants in common.
- Transfer undivided interests outright to children during parents' lifetimes.
- Transfer undivided interests to children with a co-tenancy agreement.
- Business entity ownership such as a Limited Liability Company.

## Why Estate Planning is Important Especially for Women!

Why do women need to address estate planning issues? Here are some good reasons.

If you are single, you know the task is yours. If you are married, estate planning may not fall to your husband. Women tend to outlive their husbands. The Women's Institute for Financial Education ([www.wife.org](http://www.wife.org)), reports that just one-third of women over 65 are married and on average, women survive their spouses by fifteen years. Therefore if advance planning is not done together, odds favor the woman will face estate planning alone.

The challenge estate planners face: You will want to ensure that your heirs receive the maximum benefit from your estate. Not planning wisely - or not planning at all - could cost your heirs thousands in taxes.

Does the idea of estate planning seem complicated? It's really a fairly simple concept. The main issue is deciding what you want to achieve with your estate.

## ESTATE TAX Changes Pending

Congress has not yet taken action on fixing the estate tax. The 2011 exemption amount is \$1,000,000.

\* Watch for impending changes.

# Choosing the RIGHT GUARDIAN for Your Children

No one likes to think of someone else raising their children. Choosing a guardian to care for your children and estate planning is difficult. But, planning can make a huge difference in your child's life. The following guidelines can help ensure you have chosen the right guardian.

## 1. LIST POSSIBLE CANDIDATES

Make a list of everyone you know who might be a good guardian. Consider whether each candidate would provide a better home than the foster care system. If the answer is yes, include them.

## 2. SET PRIORITIES

Decide what areas are most important to you and place them in order of importance. Some to consider:

- Parenting Style
- Are there already children in the family?
- Availability of the time for child rearing
- Maturity
- Social and moral habits and values
- Religion and spirituality
- Relationship with your children
- Integrity and stability
- Willingness to serve
- Physical well being

Your best guardian choice would score highly in each area. Since we are all imperfect, it's best to choose the few criteria that are most important to you.

Remember that some factors can be influenced by you and some cannot; for example integrity is something you cannot change in another. But, if having an at-home parent is important to you, your future guardian may be open to doing so if you make it possible through a well-structured and funded plan.

Don't place too much importance on the prospective guardian's finances as a factor in your decision. As the parent, it is your responsibility to ensure sufficient financial resources, through

insurance or savings that will provide for your children's financial needs if you are not available to do so.

## 3. MATCH PEOPLE WITH PRIORITIES

Narrow your list of possible guardians using the criteria chosen in the second guideline. Then rank the candidates on this short list first, second, and so on.

There is one more question to consider when you name a couple as a guardian. If the couple divorces or, because of a death or incapacity, only one can serve, would you like either one to act as guardian, or would you wish to move on to the next name on this list?

The process can be as simple or as complex as you wish.

It is important to keep families of both spouses involved. One method is to name members of one family as guardians that will care for the children and members of the other family as trustees, to manage the assets for the children. Your attorney can customize the guardianship to keep communication lines open and reduce the possibility of conflict.

Now is the time to begin planning for your children's bright future. The attorneys at Frundt and Johnson are prepared to assist you in this process.



# PILOT GROVE FARM SALE

## Kenneth Reed Estate

Friday, September 10, 2010, 10:00 am at Pioneer Bank, Elmore, MN

- 160 acres, more or less, Hebron Township
- 80 acres, more or less, Pilot Grove Township

## Why Estate Planning is Important Especially for Women! continued from page 2

*Let's consider the four goals of estate planning:*

**1. Control over distribution.** You can disburse your assets as you want, within the broad limits of the law. If a person doesn't make these estate planning choices, state law kicks in and decides how your estate will be distributed. This can result in conflicts that could tie up your estate.

**2. Preservation of assets.** It is necessary to ensure that as little of your net worth as possible is used up in settlement costs. Without careful planning, a significant portion of your estate, depending on its size and how asset ownership is arranged, could be lost.

Estate planning tools, such as trusts, lifetime gifts and other options can protect your estate from shrinkage. Life insurance can also provide significant tax free assets to your heirs.

**3. Liquidity.** It is inevitable that some shrinkage of your estate will occur. Thus, you heirs will need cash to handle final expenses. If funds are not readily available, they may

be forced to sell assets. When income-generating assets must be sold, a survivor's financial security could be jeopardized. It can be difficult to sell assets for a reasonable price under "distress sale" circumstances.

**4. Survivor Income.** You may want to provide income for your husband and/or dependent children. With a significant estate and grown children, you may already have adequate assets set aside. If not, life insurance may be an option.

No matter what your age or estate size, addressing your estate planning needs is vitally important to yourself and your family.

**Where to start:** Frundt and Johnson, LTD. can help you discover your needs, discuss your options, and ensure that your wishes are carried out. Many believe that estate planning is about death. Truly, it is about lifetime planning to provide for the loved ones who are left behind.

**Frundt & Johnson, LTD.**  
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