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# SHOULD YOU JUSTIFY YOUR ESTATE TO HEIRS?



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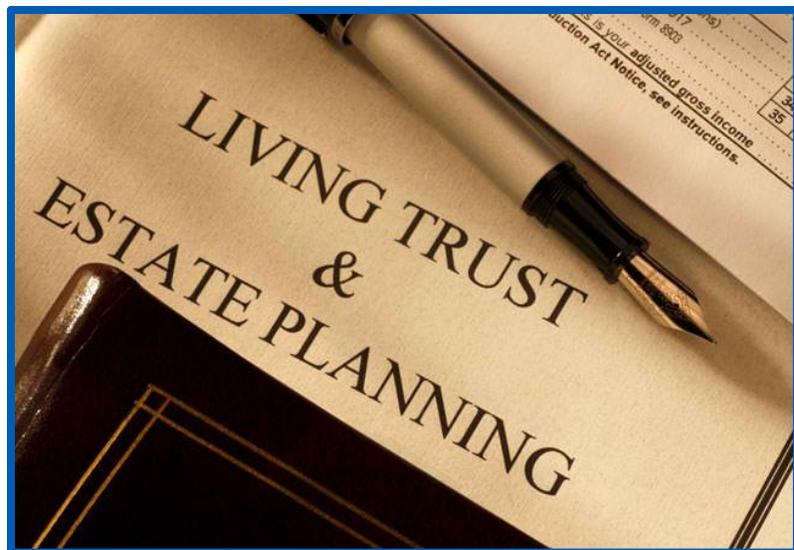
VERMONT ESTATE PLANNING ATTORNEY

One of the most asked questions we receive is whether or not a client should discuss the details of his will and estate plan with those who are named in the documents. It can be awkward because it also means you have to discuss death as well. But how much should you reveal to your family members or heirs? Should you reveal anything at all? Only you know for sure what's best for your specific needs, but there are a few reasons that might make it worth the awkward conversation.

## REASONS FOR NOT TELLING

First, though, we take a look at a few reasons why some people decide to let the estate plan do the talking for them – after their death.

The fact is, there are those who simply do not want to leave anything to their families for reasons they choose to keep within the family. Those reasons, while we never know for sure the details, are often deep and long-running. It could be a husband has known of his wife's affair



with the president of the Civics Club for many years and instead of confronting her and filing for divorce, he chose to overlook it to avoid the court battle. Still, his resentment may be so great that he chose to leave his assets to others. In cases like these, they feel that the wife will know soon enough the pain and anger the affair caused in the marriage.

Other times, a parent will learn they have made life too easy for their children and feel as though their generosity only served to complicate their lives as adults. By not leaving their assets to them, they believe they're

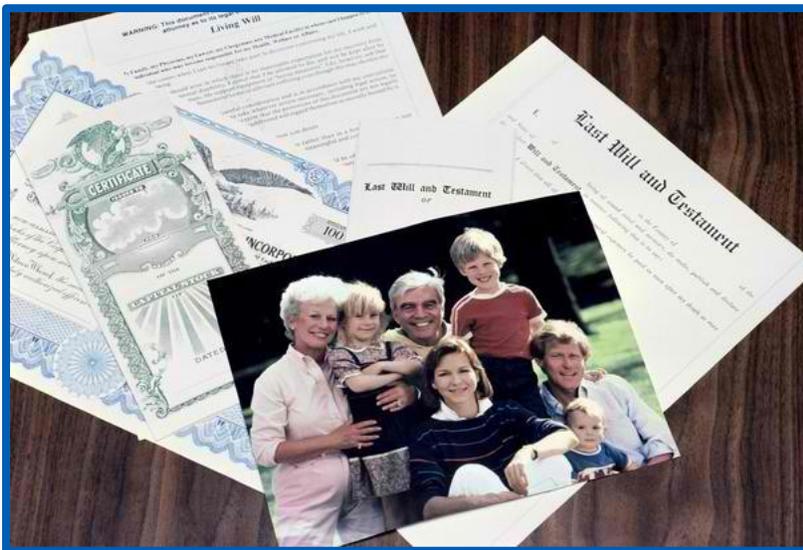
giving their now-adult children a fair shot at becoming better functioning and responsible adults.

## REASONS TO TELL

While those are convincing arguments to keep the details to yourself, there are also a host of reasons to spill all the details. You're under no obligation, of course, but the better informed you are, the better your decisions.

Many feel as though discussing their estate plan is important in order to justify the decision making process, especially if there are provisions made years earlier. You may learn that your grandson has just dropped out of college – and it might have remained a secret until you began sharing the details of your will. Suddenly, that tuition you've faithfully set aside won't serve its intended purpose.

Another example includes a married couple who'd left their horse ranch to



one son and the law firm to the other son, who'd followed in his father's footsteps and is also an attorney. Over the holidays, Mom and Dad sat down with their two sons and their wives for an honest discussion regarding who would be receiving what. They wanted to

ensure the men understood their parents' mindset when making the decisions. Turns out, both sons had announcements of their own. Their one son had opted to seek his own law degree and the other son said he was burned out and wanted to begin training horses again, which was something his father taught him as a boy. The last thing the parents

expected was a reverse in their plans. They simply changed their will to reflect the new paths their sons were choosing.

By setting the stage and inspiring a sense of safety in speaking about what could be awkward topics, you're also drawing the line that could prevent heated disagreements after you're gone. It can prevent those arguments that begin with, "You always were Dad's favorite. What did you say to him to make him leave you more than me?" Not only that, but if your spouse survives you, it could be the questions and frustrations are then unfairly directed to him or her. This way, you have the opportunity to explain, in as definitive a manner as you wish, your reasons and possibly saving your surviving spouse from having to speak on your behalf in what will likely be an incredibly difficult time in his or her life.

Another important consideration is the tax burden. It may be that a lifetime gift made now could save your survivors considerable estate taxes. This is important since assets often increase in value and what may seem reasonable today may be a massive tax bill due to appreciation in the value twenty years from now.

Bringing your estate front and center will also provide you the opportunity to double check your own intentions. A client had come to us after meeting with his family to explain his will. He hadn't made changes in nearly twenty five years and when he initially created the will in another state, he had made provisions for his grandchildren. Unfortunately, there had been no grandchildren born in the years since. He knew that until he changed his will, he could be leaving his family and his estate vulnerable.

These are just a few of the reasons you should at least consider when making this choice. We stand ready to provide any assistance or guidance you might need and if you've not updated your estate plan in the past few years, it might be a good time for a review.

## About the Author



Stephen A. Unsworth has over 30 years of experience in estate planning and business law. His mission is to provide quality estate planning services, including assistance with Living Trusts, Wills, Medicaid Planning, Probate, Trust Administration, Powers of Attorney, Special Needs Planning, and Family Limited Partnerships.

Stephen is admitted to practice law in both Vermont and Maine. He is a member of the Vermont Bar Association, the Chittenden County Bar Association, the American Academy of Estate Planning Attorneys, the National Academy of Elder Law Attorneys, and the Vermont Bar Association's Elder Law and Probate & Trust Sections.

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