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Retirement Planning: Financial and Legal Issues

“Being able to predict how much income you will need for the 20 or even 30 years of retirement will be difficult at best. Nonetheless, it is important to have a plan and a goal. If the plan succeeds beyond expectations, so much the better. If it falls short because of higher-than-expected inflation, extra-long life, health care costs, bad investment choices or other factors, you will still be better off than if you had no plan.”
- Durand Young, *Approaching Retirement*

Unless you continue working, one of your main sources of income will be your pension benefits (Social Security or private pension). The best place to get information about these benefits if you work in a medium to large company is your Human Resources department. Ideally, you should begin planning for retirement income in your 20s or 30s, though few people do. Opportunities such as deferred income plans, Keogh plans, and other financial vehicles can be accessed through your employer.

Economic restructuring in this country has meant some redefinition of public and private pension benefits not always in the best interest of the worker. Employers that used to offer “defined benefit” plans are now more likely to offer “defined contribution” plans that place them at lower risk and mean that you cannot count on a specific pension benefit level.

At least a year or two before you retire, have a talk with one of the Human Resources department specialists in retirement planning to learn as much as you can about your pension benefits. There are excellent publications that describe current and future Social Security policy and benefits; the most current information can be obtained directly from the Social Security Administration. One of the most important things to remember is that Social Security and your private pension must “fit” together. If Social Security benefits are reduced, as planned, in the early part of the next century, you will need to get more retirement income from savings and investments.

Private investment is your other important source of retirement income. While it’s important to plan ahead and to begin investing as soon as possible it may comfort you to know that whenever you begin, you’ll still be able to make headway, before or even after retirement.



Investments can be in the form of stocks, real estate, bonds, or other financial instruments. Among the most popular of these are diversified mutual funds that combine professional direction and diversification in terms of type of investment to minimize risk.

If you want to invest on your own, read as much as you can and keep these tips from experts in mind:

- Emphasize the amount of money you invest more than the amount of money you want to end up with. Saving 12% of your salary and investing it at 7% will give you a greater yield than saving 7% and investing it at 12%—even over the same time period.
- Diversify your investments. This is always a wise move. You can put your money into fully-taxed, capital gains -taxed, tax-deferred, or tax-free investments.
- Assume continued inflation.
- Invest long-term for long-term need and short-term for short-term need. You need to decide how soon you will need to spend your money, and invest accordingly.
- Choose housing you can afford. Buying a bigger, fancier house than your income can carry means that you may end up strapped for cash in your retirement. Not only that, but you need to be able to afford maintenance, indoors and out, that may become difficult for you to do yourself.

Whether you do your own financial planning or hire a professional, in order to make wise choices you must have a firm grasp of your finances, wants, and needs. Otherwise, you won’t be able to evaluate advice. There is no universal advice that everyone should follow, just as there is no investment plan that fits everyone.

If you decide to seek the advice of a professional financial planner, keep in mind that financial planners earn their money by advising you, and some of them earn a commission on financial products they can sell you. Selling is how they make their living, and though this makes some people uncomfortable, be aware that you may not be able to get free quality advice. What is important is that you know what you are in for up front, and that you don’t get trapped into purchases you don’t want.

One place to start is with a certified financial planner. Certification is not a guarantee of quality, but it implies that the planner has made a serious study of the financial planning field. Not only that, but the groups that certify planners (including the National Association of Personal Financial Planners, the International Association for Financial Planning, and the Chartered Financial Consultants) keep lists of their local membership and can give you names of and recommendations for planners in your area.

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The retiree who has access to the internet has access to advice online, but like advice anywhere, it's not guaranteed to work. Internet sites change so rapidly that the only way to know what sites still exist and are current is to "log on" and look around. One of the benefits of Internet finance sites is that you may run across amateurs such as yourself who have tried out other peoples' tips and are happy to share their successes.

Estate Planning

Whether you have a million dollars in stocks and bonds or a stocking full of wrinkled bills, whatever you own when you die is your estate. You can direct its disposition. If you die without a will, your heirs will be forced to make decisions in the context of the laws in your state. The courts will step in, even if family members agree that they have everything under control.

Even in the closest families, a death and division of property and money can become a headache and a battle. Don't let your passing become an occasion for confusion and bad feelings among your family members; make your wishes clear in a will.

There are documents you will want to prepare in planning your estate, in addition to your will: an inventory of your assets and personal property; a letter to your executor; any trusts you wish to create; powers of attorney; advance directives; and living wills (a type of advance directive). Some of these documents you may be able to create on your own or using a computer program, or with the help of a good estate planner.

Leave an Inheritance...or Die Broke?

Retirement planning and estate planning may seem to be quite different at first inspection; one concerns accumulating wealth to spend during your non-income producing years, while the other concerns distributing your accumulated wealth upon your passing. In planning for both, however, consider how to balance what you spend to keep yourself comfortable and what you save to distribute to your heirs – or what gifts you can make while living (sometimes called "giving with warm hands") that maximize the value of your estate and minimize the costs associated with distributing it.

A will transfers financial assets not already transferred through other means. You should prepare a letter of instruction to increase the likelihood that assets will be distributed properly. It should contain a detailed inventory of all your assets and liabilities, including account numbers and names of financial institutions, and a listing of the location of important papers such as your will, birth and marriage certificates, insurance policies, bank pass-books, and stock certificates.

The letter of instruction needs to be in an accessible place, known to the executor and perhaps other close family members. Make sure you review both the will and the letter of instruction every two years or when-ever a major life change occurs.

Don't assume that property held by husband and wife is automatically jointly owned. Except in "community property" states, only property in which the surviving owner has the right of survivorship is considered to be held jointly. Unmarried partners should make sure that all property is in both partners' names; you will have even fewer legal protections than married couples. Remember: when in doubt, spell it out.

Powers of Attorney

A power of attorney is a legal document that allows others to make decisions or take actions on your behalf, should you become unable to do this yourself. A power of attorney can be immediate or springing; if it is immediate, it can also be durable. Some definitions:

- An immediate power of attorney takes effect as soon as it is signed and notarized.
- A durable power of attorney is good even if you should become disabled or incompetent. If your power of attorney is not durable, it becomes invalid in those cases.
- A springing power of attorney goes into effect under some certain condition; for example, it can take effect if you are out of the country or if you become suddenly disabled.

All powers of attorney should carry a definition of incompetence or disability that is clear to all parties and can hold up in court. For this reason, it is a good idea to get legal assistance in creating your power of attorney document.

Your power of attorney is designed to authorize another person (usually a family member or other trusted person) to make major decisions for you; this person becomes your attorney-in-fact. The power of attorney can be broad-ranging (allowing the person designated on your power of attorney to give away your property, for example) or specific (only allowing your attorney-in-fact to sign documents, checks, etc.).

A power of attorney must be witnessed and notarized as required by state law. This is another reason to get legal counsel when making out your power of attorney.

Advance Directives

You can exercise control over health care decisions, even if disability erodes your competence, by using advance directives. These are legal documents that express personal wishes about health care and treatment. The two most important advance directives to physicians and others are the living will and the durable power of attorney for health care. Prolonged medical care decisions can be made for you against your verbally-expressed wishes, even against your family's wishes, if you don't prepare one of these documents clearly stating how your end-of-life care should happen.

A living will is a document that states your wishes regarding life-sustaining measures or other medical treatment should you become unable to speak for yourself. It can also specify whether surgery should be done, pain medication administered, and organs donated. Living wills are legal in all states that have a Natural Death Act.

State law may also require physicians to comply with the terms of a living will or transfer the patient to a physician who will. The living will can be changed or revoked at any time. Copies of the completed living will should be given to your doctor, other health care providers, and family members or trusted friends.

If you and your life partner are unmarried, especially if you are both of the same gender, health care providers may not recognize your partnership as legitimate. If you want your partner to have access to you in a hospital or to make medical decisions for you, your need for an advance directive is even more pressing to establish who you consider to be "family" or "next of kin."

You do not need an attorney to prepare a living will, but legal advice may be helpful to assure compliance with state statutes. You should also make sure that all family members have copies of your living will and know their roles in case of extreme circumstances. Not all family members may be happy with the decisions you make, but if you spell them out in writing prior to potential disability, your family will be assured that these are indeed your wishes, and should respect and carry out your choices.

A durable power of attorney for health care goes beyond a living will to appoint an individual to make all health care decisions for a person who becomes incapacitated. It is desirable to have both a living will and a durable power of attorney for health care. The former deals with instances in which there is medical certification that a person's condition is terminal, and it works only for treatment refusal. The latter may be honored in situations when a person has a slow, degenerative disease or multiple bodily systems are failing, and is more useful if you want to try all possible treatments.

The person you choose as your health care proxy should understand and respect your personal wishes about medical treatment. Since you must be mentally competent to execute the health care power of attorney, the document should be drawn up as early as possible to avoid later difficulties should your judgment become impaired. You are assumed to be mentally competent unless a court ruling states otherwise.

Because end-of-life decisions may be difficult to discuss with your family, and painful for you to think about, you may want to start by simply discussing your values over an extended period of time. When you and your family are comfortable, you can tell them that you have considered preparing a living will or a durable power of attorney for health care. It also helps to bring pamphlets and articles about these issues and to read and discuss them together. Sometimes the discussions are so difficult that you may want to ask a professional facilitator to help you.

The Third Age

The three ages of man—childhood, adulthood, and old age—have different tasks. Many believe that the challenge of the third age is to fully understand and appreciate life itself. Put another way, meaning-making is the primary task of the older adult.

When you have planned well for your physical, financial and emotional security, you have also laid the foundations for a life in which you can find more meaning than you might have thought possible. With the additional time and freedom from responsibilities that retirement brings, you can satisfy your curiosity and harness your creativity for what may turn out to be the greatest adventure of your life!

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