If you have any questions about this Advisory, please contact:

MICHAEL T. CLEAR
203.363.7675
mclear@wiggin.com

VERONICA R. S. BAUER
561.701.8701
vbauer@wiggin.com

ROBERT W. BENJAMIN
212.551.2602
rbenjamin@wiggin.com

DANIEL L. DANIELS
203.363.7665
ddaniels@wiggin.com

HELEN C. HEINTZ
203.363.7607
hheintz@wiggin.com

DAVID W. KESNER
203.498.4406
dkesner@wiggin.com

CHARLES C. KINGSLEY
203.498.4307
ckingsley@wiggin.com

LEONARD LEADER
203.363.7602
lleader@wiggin.com

VANESSA L. MACZKO
203.363.7667
vmaczko@wiggin.com

RANI NEWMAN MATHURA
561.701.8703
rmathura@wiggin.com

THE ESTATE PLANNING FAMILY MEETING: 5 STEPS TO A SUCCESSFUL MEETING

For many, the holidays are often spent gathering around the dining room table with family and close friends, sharing meals and regaling each other with stories or politics of the day, to the chagrin of some. It is also a time of year when we look forward to accomplishing our year-end goals and plan for the future.

As estate planning attorneys, we often see an uptick in interest from our clients during the holiday season to start or make changes to their estate plans that address their present and future goals. One often-overlooked aspect of estate planning is the family meeting. A family meeting is important because it gives you the opportunity to communicate your wishes to your loved ones while you are living and capable of doing so. It is also important to ensure there is transparency with your family to reduce the likelihood of conflict between family members and to set general expectations about the distribution of your assets as well as any decisions you made about your end-of-life care.

Talking about end-of-life matters is never easy, but a well-planned family meeting will allow your loved ones to have access to the same information and give them a chance to ask questions to better understand your wishes and their roles after your death. Please review the following five steps to conducting a successful family meeting:

1. DECIDE WHO TO INVITE.

You should typically consider inviting the beneficiaries of your estate (i.e., children, grandchildren, etc.), as well as the individuals who will be serving as fiduciaries (i.e., executors, trustees, guardians, health care agents, etc.). If some of the fiduciaries are not family members, consider inviting them as well so they can start building a relationship with your family now, as they will be the ones guiding your family after you are gone. If you have a blended family, it may make sense to hold two meetings to discuss your plan to keep assets separate.

2. SEND THE INVITATION.

After you have decided who to invite, you should send the invitation. This may be the hardest part of setting up a family meeting because it may be uncomfortable for some to think about a time when you will no longer be around. Try announcing the meeting in a way that does not cause alarm by letting your family know that you are in good health, but recent events in the world (Covid, etc.) have made you think about the future and the long-term security of your family. Make sure that the reason for the meeting is clear so that everyone can be emotionally prepared for the topics you will discuss.

CONTINUED

THE ESTATE PLANNING FAMILY MEETING: 5 STEPS TO A SUCCESSFUL MEETING

ERIN D. NICHOLLS
203.498.4319
enicholls@wiggin.com

CAROLYN A. REERS
203.363.7668
creers@wiggin.com

MATTHEW E. SMITH
203.363.7639
msmith@wiggin.com

KATERYNA BAKHNAK
212.551.2855
kbakhnak@wiggin.com

MARY MARGARET COLLEARY
212.551.2637
mcolleary@wiggin.com

RUTH FORTUNE
203.363.7658
rfortune@wiggin.com

MI-HAE RUSSO
212.551.2619
mrusso@wiggin.com

MARISSA A. O'LOUGHLIN
203.363.7674
moloughlin@wiggin.com

KAITLYN A. PACELLI
203.363.7635
kpacelli@wiggin.com

ANDREW S. PHILBIN
203.363.7606
aphilbin@wiggin.com

BETH A. SCHARPF
212.551.2634
bscharpf@wiggin.com

3. ASSEMBLE DOCUMENTS.

Assembling the right estate planning documents for discussion is key. Generally speaking, you should review your health care documents, power of attorney, will and revocable trust. The following is a brief summary of each document:

- In terms of your health care documents, a health care proxy and living will (also sometimes referred to as your "advance medical directives") will let your family know who you have authorized to make healthcare decisions on your behalf in case you are unable to do so. Further, this document will explain your wishes with respect to medical care in the event that you are in a terminal medical condition or a permanent coma.
- The power of attorney appoints the agent(s) who will make financial decisions on your behalf.
- Under your will, you appoint executors who will administer your estate after your death. You might also name guardians for any minor children of yours, and trustees of any trusts for the benefit of your spouse or descendants.
- Under your revocable trust, you appoint trustees of any trusts for the benefit of your spouse or descendants.

For a specific list of documents to discuss with your loved ones, please reach out to your Wiggin and Dana attorney.

4. CREATE AN AGENDA AND CONDUCT THE MEETING.

Conversations of this nature can often lose focus and get sidetracked, given the sensitive topics being discussed. Preparing an agenda is a good way to gather your thoughts and make certain that everything that you wish to address is covered at the family meeting. The agenda should not be overly nuanced and long, instead use it as an outline that lays out the key topics for your meeting. If you wish, you can provide a copy of this document at the start of your meeting, so your family members are aware of the topics you would like to discuss. An agenda is also a good way to keep the conversation organized and on track. You may wish to consider the following points as you conduct the meeting:

- **Keep it general.** You do not need to talk about specific dollar amounts, it is okay to keep the conversation general. However, if there are certain personal items, like jewelry or collectibles, that you intend to leave to specific individuals, it may be beneficial to explain your reasoning to avoid family conflict after you are gone.
- **Discuss the terms of your trust(s).** It is important to explain to your loved ones why assets are placed in a trust and not distributed outright to them. Consider as part of your conversation the tax planning that went into the trust structure as well as

CONTINUED

THE ESTATE PLANNING FAMILY MEETING: 5 STEPS TO A SUCCESSFUL MEETING

This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

any asset protection measures that help keep your assets in the family bloodline and protected from creditors. If your trust is funded with family business interests or a family compound, it may be specifically important to discuss management and use of these assets, as dictated by the trust agreement. This part of the conversation is usually difficult for your loved ones to understand since they may not be familiar with the tax and business considerations. Therefore, consider having your Wiggin and Dana attorney present or provide you with a detailed summary of your estate plan.

- **Review your desired end-of-life care, if appropriate.** Let your loved ones know about your preferences for medical treatment such as a Do Not Resuscitate (DNR) order or no extraordinary life-saving measures that may be a part of your health care documents. Also, discuss any specific funeral arrangements that you wish to be carried out, and whether you have entered into any pre-funded funeral contracts.

5. CONTINUE THE CONVERSATION.

After you conclude your family meeting, it may make sense to schedule a follow up meeting to revisit one or more topics. At that time, you can address additional questions that were not asked at the first meeting and clarify aspects of your estate planning, after consulting with your Wiggin and Dana attorney. It is also important to continue the conversation with your family as your needs and desires change in the future. This is especially true if new members are born or married into your family, and as younger family members get older and may take a more prominent role in your estate plan – either as fiduciaries or as primary beneficiaries of your estate – or should be encouraged to create their own estate plans.

Conversations about your estate plan not only allow you to be proactive about your end-of-life care, but may also mitigate strife during the administration of your estate. These conversations can be difficult to have, but we often find that the pros outweigh the cons, and family members become better equipped to make meaningful decisions regarding your care while you are alive and will carry out your wishes after you are gone. Following the five steps outlined above is a great guide to get you started, however, you are encouraged to reach out to your Wiggin and Dana attorney with any questions about setting up a family meeting and which documents are relevant for discussion.