

Farr: An Estate Planner's Handbook

Robert V. Milligan

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that some people might mis-execute his forms but he still feels that will provide a better balance than forms prepared by lawyers. No lawyer would be satisfied with anything short of a perfectly executed document. The further admission that his tear-out sheets are not perfect but are legally correct is of little consolation. Legal case books are full of legally correct documents that failed to express the signator's intent.

The author's epilogue closes with the statement that he did not attempt to exhaustively explore every aspect of the problem of estate administration in America. He felt it was sufficient to merely set forth basic facts to prevent the reader from being exploited by the probate system.

An honest and accurate epilogue would have told the reader that each person's estate plan must be tailored to his needs. The best plan can only be developed by discussing the matter with an attorney. The attorney must analyze his client's needs and suggest the best alternatives available to satisfy those needs. The tax savings afforded by these alternatives should be explained and probate costs will also be considered. If an inter vivos trust is recommended, it should be well drafted and tailored to the individual.

A number one selling book cannot be ignored even though any competent estate planner would find it virtually useless. Its popularity should point out to the bar that the public has not been properly educated on the advantages and necessity for proper estate planning. If the book alerts its readers to the need for such planning, it will serve a purpose. Total reliance on this kit could, unfortunately, jeopardize the security of the user's family and be needlessly expensive.

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An Estate Planner's Handbook. By JAMES F. FARR. Boston: Little, Brown & Co., Third Edition, 166. Pp. 663. \$15.00.

This book was not intended to be a scholarly treatise on the complexities of estate planning, but rather it was designed to be a statement of the fundamental principles with some emphasis on tax implications which will be of service to anyone desiring to obtain a speaking acquaintance with this important subject. Although the treatment of the various principles was necessarily brief, those having a more serious interest in estate planning will find this book to be a valuable tool as it is well footnoted and provides a ready reference to the current authorities in the different areas.

The term "estate planning" was in some disrepute during the earlier years of use as it was somewhat commercialized and practiced by people who were not qualified or licensed to perform this service. It also grew up with the unfortunate connotation that it was primarily a method of tax avoidance. Today, however, it is a generally accepted fact that the professional estate planner is a specialist in his field as he must have a thorough knowledge of the laws pertaining to wills, trusts and estates. In addition, he must be a skilled and concise draftsman, understand the broad trends and precise rules of taxation, and have a familiarity with the actual administration of fiduciary portfolios and insurance.

The author emphasized the fact that estate planning is far too worth while as an intellectual exercise to be dependent upon merely achieving tax economies. Rather he feels estate planning should be concerned with the following elements which have much deeper significance: (a) Does the plan, insofar as its benefits are concerned, fit in with fair and normal concepts of family welfare? As an example the author pointed out that if a marital relationship is in danger and of doubtful duration, you would not use the marital deduction technique only to save tax dollars. (b) Does the plan take sufficiently into account the things that can and do happen to people in the future? (c) Does the plan provide for administration by a properly qualified group of fiduciaries and for succession in that all important office?

The book is basically divided into two sections. The first section contains text material dealing with the various tools and means which the estate planner has at his disposal in creating the desired estate plan. The last section consists of a series of suggested forms which illustrate the various tools described in the text.

The text material is very readable and the basic principles are presented in such a manner as makes them easily understood. The material is not burdened with legal technicalities and refinements, but all important points are amply footnoted so those desiring a more scholarly treatment of any point will have a convenient reference to the current authorities in that area.

After the first two chapters which deal with the area of estate planning generally and the importance of obtaining all relevant facts pertinent to the estate plan, the author turned his attention to a discussion of insurance and how it may be effectively used both in family and business plans. Here he discussed the value of life insurance for the average man and dealt with the various aspects of insurance options, split dollar insurance, group insurance, and accident and health insurance. He also discussed insurance trusts, both funded and unfunded and explained their role in the overall plan. As to insurance in business plans, there was a discussion of key man insurance and business insurance trusts, which when effectively used, will dispose of many complicated and troublesome estate problems which can arise when there are closely held business interests involved.

In subsequent chapters the author discusses the use and significance of testamentary and intervivos trusts. The distinction between the two types of trusts and their particular advantages were made clear. The author in his treatment of irrevocable intervivos trusts specifically commented on annual exclusion trusts, short term trusts, long term irrevocable trusts and charitable trusts. Although irrevocable trusts may be effectively employed to reduce either income taxes or federal estate taxes, the author cautioned against their indiscriminate use as he feels strongly that the estate plan should be sufficiently flexible so as to be able to take into account the things that can and do happen to people. Of course, once an irrevocable trust is created, it must be operated strictly in accordance with its terms as they were originally written and they cannot be altered regardless of how drastically circumstances may change.

While tax considerations should not be the dominant theme of an estate plan, one cannot be created without considering the tax effect. The author included a chapter in which he reviewed the general principles of the estate,

gift and income taxes. Certain matters such as gifts in contemplation of death, joint property and powers of appointment were given special consideration. Also, because of the importance of the marital deduction in estate planning, the author devoted a complete chapter to this subject wherein he reviewed the entire background of the marital deduction, its purpose and how its benefits may be maximized. The effect of the 1964 Revenue Procedure 64-19, which was designed to prevent certain post mortem estate planning through its use, received special attention.

An important element of the estate plan is to provide for its administration by a qualified group of fiduciaries. The author devoted a chapter to this matter wherein he discussed what is involved in the selection of the original trustees, the importance of providing for their successors, and what their powers should include.

The author also included a chapter entitled "The Estate Plan in Relation to the Conflict of Laws" in which he discussed the general question of jurisdiction and a helpful and practical chapter entitled "Some General and Specific Cautions for Estate Planners."

The Appendix contains a series of forms which illustrate certain types of estate planning instruments discussed in the text. This is a particularly useful part of the book because alongside each clause of each particular form, the author made certain explanatory comments. He explained the purpose and reasons for the specific clauses and gave certain warnings about their use. There are also cross-references to the text material and to other authorities in relation to many of the provisions. The author had some misgivings about including a series of suggested forms in the book as he realized there was some danger they might be used indiscriminately by some busy practitioner who might not fully understand their contents. In spite of this danger, however, he felt the forms would be useful and proceeded to include them, but not without calling the reader's attention to Professor Leach's sage advice that "No clause should appear in any will drawn by you unless you individually know precisely what it means, what object it is designed to accomplish, what doctrine (if any) of the law it grows out of, and how it furthers the testamentary intentions of this particular client."

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