EPISODE 1820

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FT: So Money Episode 1820, Estate Planning Made Simple. How to Create a Will, a Trust, and Peace of Mind.

[INTRODUCTION]

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ANNOUNCER: You're listening to So Money with award-winning money guru, Farnoosh Torabi. Each day, in a 30-minute dose of financial inspiration from the world's top business minds, authors, influencers, and from Farnoosh herself. Looking for ways to save on gas or double your double coupons? Sorry, you're in the wrong place. Seeking profound ways to live a richer, happier life? Welcome to So Money.

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> ***"HZ:*** *A will at its face is intended to say, 'At the time that I pass away, here's how I want my assets distributed, here's who I want getting my home, here's who I want getting my bank accounts, my brokerage accounts, my jewelry collection, et cetera.' The big difference between a will and most trusts is that, a will really has no force or effect until you pass away."*

[EPISODE]

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FT: Hey, So Money listeners. Welcome back to the show. I'm Farnoosh Torabi. We have a special episode today pulled straight from inside the So Money Members Club. If you've ever been curious about what goes on in the club, well, hopefully this episode gives you a flavor. This month in the So Many Members Club, I hosted a live workshop all about estate planning. This is a topic that many of our members requested, and so, we delivered. We delivered by bringing in an expert to guide us, Heather Zack, an attorney and financial planner who leads high net worth strategy at Commonwealth Financial Network.

Now, this conversation that you're about to hear is the kind of deep practical workshop that I host every month in the members club, sometimes with guests like Heather. and always with a chance for you to ask your questions directly to me and our guest. In fact, just this morning, I had a monthly office hour. I do this every month as well. It's a smaller, more intimate meetup, where I offer more hands-on, one-on-one guidance. Today, we talked about five to nine plans. People are worried about their retirement accounts. One member even had a question on behalf of her adult kids. So, my advice was, bring your kids into the club. One ticket gets you all in.

Now, with regards to this workshop, today's show, estate planning is one of those financial topics that too many people delay, we avoid it, we assume it doesn't matter for us because we're not wealthy, or rich, or like, what does it even matter? But listen, whether you're married or not, whether you have a lot of money or not, have kids, don't have kids, have a house, property, or if you're just starting to build wealth, this conversation is really important. You're going to want to go back and listen to it. I've already listened to it three times, trust me. It's invaluable information.

I even have a will, but there are still things that I learned during this episode that I need to go back and accomplish. Our guest, Heather Zack, she's going to help to mystify all of these essentials. We're going to cover wills, trusts, how to choose the right people to manage your estate, how to avoid common mistakes that can cost your loved ones time, money, and stress in your absence. If you've ever wondered whether those create your estate plan in an hour online sites are legit. We're going to get into that as well. Here's Heather Zack.

Heather Zack, welcome to So Money.

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HZ: It's thrilling to be here. So, thank you.

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FT: Tell us a little bit about your background and what brought you to specialize in estate planning and wealth management.

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HZ: Yes, happy to. I am an attorney by training, but I actually went to law school while working in finance. While I was in my undergrad, I worked in finance, worked for broker dealers. As I was going along, I really figured out that to deepen my career, I needed some additional education and decided to go for law school. Made it really easy on myself. While I was in law school, I took a mandatory wills and trust class, and absolutely fell in love with estate planning. I found it not only very interesting, but it's so personal. It's something that absolutely everyone needs.

I was able to translate my passion for estate planning into the world of finance. I now work for Commonwealth Financial Network, we're a national broker dealer RIA. I head up our high-net worth strategy, but really focus on financial planning and estate planning for clients of all levels of wealth. But estate planning is the biggest topic I think that clients and advisors want to hear about, so it's an exciting topic for me.

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FT: Thank you. The people in our community listening in the club were women, women with families of all different shapes and sizes. What kinds of concerns or questions do you typically field from women when it comes to estate planning. I know more and more of us are breadwinners in our households. So, a lot of this is falling on our laps.

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HZ: Yes. I think by the nature of being women, we are practical thinkers. We know that there are real concerns to the fact that we are likely to outlive in the case of male partners, our partners. So, a lot of times when I'm talking to women, the number one concern is, am I okay? Is my family okay? Meaning, is my family going to be protected in the event that there's a spouse that comes into the picture that has some nefarious beliefs or what have you? Am I going to be able to be comfortable if I am incapacitated at any point in time? It's really just ensuring that longevity and the ability to live at a happy and comfortable life, and make sure that their families can do the same.

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FT: Yes. Let's get into the basics, at least for now, and we can get into more specific detailed questions from the audience. But just to get started, if you are that person who is concerned coming to you with these questions, will I be okay? What's your answer to that? What are the next two, three, four, five steps?

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HZ: Sure. I think, everyone needs to have an estate plan. An estate plan, I think, traditionally a lot of us would think of as a will, which is an absolutely crucial document. But I would say, equally as crucial are going to be powers of attorney. Go see an attorney and have a discussion. It's worth the time and the expense to make sure that you have powers of attorney for your financial life, that someone can step in, and act on your behalf if you are incapacitated to access all of the financial stuff that you've got.

The same thing for healthcare. If you have a health event, is there someone that is going to be able to make decisions and ensure that you're getting the proper care? A will is absolutely necessary to really understand how you want to have assets distributed when you pass away. But the other big document that I think almost everyone could benefit from is a simple revocable trust. I'm happy to get into the differences between those two things. A will at its face is intended to say, "At the time that I pass away, here's how I want my assets distributed. Here's who I want, getting my home, here's who I want, getting my bank accounts, my brokerage accounts, my jewelry collection, et cetera."

The big difference between a will and most trusts is that, a will really has no force or effect until you pass away. A trust, on the other hand, is something that can be put into place during your lifetime. So, there's a whole bunch of different variations on trusts, but the most common that we would think about are revocable and irrevocable. A revocable trust that you establish during your lifetime is what we call a disregarded entity. It is really just a wrapper that you can put around your assets while you still have complete control of those assets to be able to dictate, "At the time that I become incapacitated, here's what I want to happen with my money. At the time that I pass, here's what I want to happen with my money."

The biggest difference between the will and the trust is because that trust is an enforceable legal document while you're living, you avoid probate. Probate is something I'm sure folks out there have experienced with their loved ones. It is not a fun process. You have to go to court; you have to do a filing of all of the assets in a decedent's estate. It can take months to years in some cases to fully go through the probate process, and it's very public. With a trust, you're able to bypass probate for anything that you put in that trust wrapper during your lifetime. So, it's a really nice way to ensure kind of continuity and ease for your family when you pass.

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FT: Just to summarize this part, a will is important as you mentioned. It's how you're going to distribute your assets. It has no force or effect until you pass away. The trust and there's revocable and irrevocable. And you've talked about so far is the revocable trust. This you put in place during your lifetime. It's what you call a disregarded entity, like a wrapper that you can put around your assets. If you don't have this and you do have a will, but you don't have the revocable trust, you may face what's called probate in the event that you are incapacitated or die?

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HZ: Yes. Essentially, probate is the process of controlling and distributing assets for a person that has passed away. Probate exists whether you have a will or you don't. If you don't have a will, it just means that the state government decides who gets your assets. That's why everybody needs a will. But the probate process really is intended to involve the court, so that they have oversight into the distribution of your assets after you pass away, whether they're following the terms of your will or the terms of state law.

The trust, on the other hand, anything that goes into that trust wrapper during life avoids probate. When we think about that revocable trust, that is something that you could put your home in, you could title your bank accounts, your brokerage accounts. You could title some of your specialty assets into your trust, your jewelry, et cetera. That way, those assets, when you pass away don't have to go through the probate process.

Now, I will say, what typically happens is you're going to have a will and a trust and they work together. That will is intended to say, if there's anything I missed retitling during my life, and I didn't put it in my trust, that will is going to be the catch-all. Usually, it's going to pour assets into your trust at death. This happens a lot with your vehicles. You're not usually going to put your vehicle in the title of your trust. That's going to go through the probate process. If you have personal assets inside your home, you may or may not pass that to your trust. So, it's going to be that catch-all for anything that doesn't get retitled during life.

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FT: We hear a lot on social media. It's so important to leave your home in your trust. Is it?

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HZ: It is and it isn't. That is unfortunately the answer with a lot of estate planning. So, putting a home in a revocable trust means that you're again avoiding that probate process at death. It also can provide a measure of privacy. So, if you don't want public deeds that show who the owner of a piece of real estate is, if you have a trust that owns that property, that's all that anyone would be able to see in the public record.

Now, a lot of folks don't go through the process of putting their home into a trust. Usually, if you've got a married couple, it's going to be in a joint ownership. If I pass away first, my spouse gets that home without the probate process coming into play. As a best practice, sure, yes, it is great to put your home in a revocable trust to control that distribution after the final death of the deed owners. But it is a process, you have to actually register a deed. So, it's something that some folks tend to forget about after they execute a trust. But if you've got a trust, yes, it's great to put your home in it.

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FT: The other thing I've heard about it is that there might be some different tax implications. Can you talk a little bit about that?

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HZ: Yes. So, that really gets into the revocable versus irrevocable.

[0:12:57]

FT: Okay. Which is my next question. Differentiating, perfect.

[0:13:01]

HZ: The revocable trust, as I mentioned, it is a disregarded entity. If I own assets in my revocable trust and I'm alive, I own them just the same as I would if I owned them outright. I can take assets out of that trust, I can put assets in the trust, I can sell the assets, I can do whatever I want. I'm not filing a separate tax return for my trust. Really, it again, is just that wrapper to ensure that there's control over the assets. Irrevocable trust, on the other hand, is one where you can think of it as a lockbox. I am putting something in that trust, and I can't take it out. So, I have made a gift into that trust, and I may be able to, based on the language of my trust, get income that comes to me out of that trust. But I can't, for example, put a bank account. I can't title a bank account into my irrevocable trust, and then say, you know what, never mind. I'm going to just take all of that money back, and I'm going to control that myself.

With an irrevocable trust, it is its own separate entity. It has its own tax ID number. It has to file tax returns. The really tricky thing when we're talking taxes with irrevocable trusts is, irrevocable trusts have the same tax brackets that we do as individuals, but you hit that top 37% tax bracket real quick. It's somewhere around, I think, $13,000 or $14,000 in total income this year that you would hit that max bracket. Irrevocable trusts are often really used for some other planning need. They have a lot of value, but they get a lot trickier, and usually, we're talking about someone with a greater level of wealth, or in some cases, we're talking about planning for Medicaid. So, needing to access Medicaid benefits as you age. Irrevocable trusts can be used to protect assets from being counted for Medicaid purposes.

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FT: I see, okay. It's not as frequent as we would say, revocable trusts.

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HZ: Correct, yes. For most individuals, a revocable trust is going to be all that you need.

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FT: Yes. Who is best to help someone do this? If not a human, we know there's so many websites too that tout their services, create your estate plan in 40 minutes. I would assume that there's a market for all of these, but you coming from the financial services industry, like you have a POV on this, that it's clear. But for someone who's looking to save money on this process, because it can be anywhere from a few hundred to thousands and thousands of dollars. What is realistic?

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HZ: It's a tough question. I'm obviously biased, and not because I think everybody needs to be an attorney and see an attorney and pay that money. It's more so about the quality of the output. If you are using something like a Rocket Lawyer or a LegalZoom, you can end up with a completely fine legal document. The basis for their documents is absolutely fantastic, rooted in state law. The trouble with those services, and I put this rather bluntly is, it's garbage in, garbage out. They ask very pointed questions like; do you want a trust? Do you want to put this asset in your trust? Rather than, when you go to an attorney, they're more going to talk about your situation and then tell you, "Okay, based on what you've told me, I think we should do X, Y, and Z."

For someone that is not trained going through a Rocket Lawyer or a LegalZoom can lead to some messy documents. I've personally, I've had friends utilize Rocket Lawyer and LegalZoom. In almost every single case, I tell them to just send the docs over to me, and I'll take a look at them, they're a mess. That's because you just don't know how to answer the questions in the way that the software is trying to get you to answer them. There are middle ground alternatives.

If you are working with a financial advisor, a lot of financial advisors these days have access to software that can help to create an estate plan. wealth.com is one that we use at Commonwealth. That is much more similar to the attorney experience in that, you're going to be asked these qualitative questions, and then, the software comes back to say, "Okay, here's the type of a state plan that you need." Then, you have a financial advisor involved that also is somewhat well-versed to very well-versed in estate planning, and they can be that second set of eyes.

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Vanilla Trust and Will, these are all tools out there. I tend to think those are a step above the Rocket Lawyer and the LegalZoom, just because they've been crafted a little bit differently. But I guess my bottom line is, it is better to have something than nothing. If the barrier to entry is cost, go for a Rocket Lawyer, go for a LegalZoom, you're at least going to have something in place. Just be very comfortable asking questions. Call their support line and ask them, "What is this question trying to get at?" Because you want to make sure that you're putting in the best information possible.

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FT: Thanks. I paid $2,000 for my most recent estate plan. It wasn't the first time I did it. That's my next question, is, how often should you revisit your plan? What are the life events that would trigger revisiting or visiting for the first time, your will, your trust, all that?

[0:18:27]

HZ: Yes. Great question and a pretty common one. I think a lot of practitioners say every five to 10 years, you should review your estate plan, and I would agree with that. I think the bigger factor you touched on, what are those life events that mean, I should take a look at my estate plan. Getting married is a huge one, having a child, a dramatic change in your net worth, if you move from one state to another. This is a really frequent question. So, I'm from Massachusetts. If I moved to New York, my Massachusetts estate plan is still completely valid in the state of New York. However, Massachusetts has a $2 million estate tax exemption on a state level. New York has a very different scale, but it's much higher.

If I have significant wealth, my documents might not make sense anymore. There's also some little nuances in things like your financial and healthcare powers of attorney that can vary from state to state. If you move, it's always a good idea to just take a quick look at the estate plan. Marriage, birth, death, those are the other big three, though, for sure.

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FT: Marriage, birth, death. You mentioned earlier identifying your power of attorney. There's also your executor, the person who will delegate and administer the wishes of your will. Who do you identify these people? In your experience, what are the mistakes, let's just say, people may make in selecting, designating these folks, and also health healthcare proxy too? Which may not all be the same person.

[0:20:02]

HZ: Yes, yes, they can differ. Often, they're the same. It's a tricky thing. If you think about it, you are putting this person in a position of great power, but also great responsibility. So, it's somewhat of a burden, and that's my experience talking with a lot of folks that have acted as an administrator for an estate, an executor, or a healthcare, or financial power of attorney. It's a bit of a burden. It's something that you have to navigate. You're going to generally need to engage other professionals. But it also needs to be someone that you trust implicitly.

The biggest mistakes I've seen are, probably folks that are putting a single child. So, they have multiple children, they're putting a single child in that role of executor, healthcare agent, financial agent, or trustee of their trust. It can really make some contentious feelings within the family. I've seen in a few cases where siblings have ceased to have a relationship because of a disagreement over how mom or dad's estate is handled, or how distributions are made from a trust. It's important to walk that line between, we want to maybe put one of our children in this place of responsibility, but make sure that the rest of the children are on board with that, and that there's some sort of consensus and understanding.

I think the biggest thing for me, and this goes through the entire estate planning process, is to be open and have honest, frank conversations with your family about your wishes. If you are naming one child to be the executor, but the entire family knows why that's being done, and what your wishes are, that's going to save a lot of headache later.

I will say, however, one of the easiest ways to avoid that mess is by naming an independent fiduciary. So, there are companies out there that act as corporate trustee or executors. There's obviously a cost associated with that, but at a certain level of wealth, I think it makes sense to bring in that neutral third party that is just interpreting the four corners of these documents. Now, that can't be done typically for a financial or healthcare power of attorney. That's going to need to be a family member or trusted friend, but that can certainly avoid a lot of the conflict. In addition, some attorneys will act in that role if you want that neutral third party.

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FT: I'm sure some of us are listening, going, "Okay, I get all of this. My parents don't talk about money. They're very tight-lipped when it comes to their – a lot of things, let alone this is like very feels very taboo. How can I help them help me understand what their wishes are so we can get ahead of some of this sticky stuff that may come up in their – in the event that one parent or both pass on and we don't have surprises." Are there scripts you recommend or is there a like an anecdote you can share where things got ironed out ahead of time and it was thanks to a little bit of conversation?

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HZ: I guess I would have the opposite anecdote.

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FT: That's fine too.

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HZ: Yes. I think having this conversation with your parents, it is incredibly uncomfortable, especially for these older generations. Talking about money, as you said, is so taboo. But sitting them down and explaining, this is something I am going to have to deal with, especially if they have put you in the position of being that executor, that trustee. I don't want to mess it up, and I don't want to cause conflict in the family. You don't need to tell me how much, you don't need to tell me who is getting what necessarily, but we need to have a frank conversation about what your overall wishes are and why you want me in this role or why you want someone else in this role.

I think I have seen this play out a number of times. One of the most challenging was a husband and wife, who the wife actually passed away very young and they had a young child. The husband and wife knew what their expectations were for how they wanted their son to be raised, the type of life they wanted him to live. But mom had named her sister as the fiduciary, so the administrator of her estate, the trustee of her trust. Sister had a very different view of how the money should be handled after mom passed away, and now dad and sister are in a battle over money. There's a young child that is put in the middle of this. It just can be so messy and so painful.

I think the number one thing that our parents are concerned about is, "Are we going to be okay? After they go, are we going to be okay? Is the family going to be okay?" Approaching them from that place of love and wanting to really make sure that the family unit stays together after they pass, I think is a great way to tug on those heartstrings a little bit.

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FT: That was an interesting choice to make the sister the fiduciary as opposed to your spouse.

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HZ: I think what happened there was this was an older estate plan, where sister had been previously named after that marriage, birth. There was no update. Unfortunately, it ended in disaster. That's another place where I would say to the extent possible for your parents, for yourselves, have someone take a look at your documents. That could be your financial advisor. That could be an attorney. That could be whomever you trust to just be a second set of eyes to say, "Hey, this doesn't feel like it really lines up with where your life is at right now." But to be able to get ahead of those concerns before something catastrophic happens, it's just, again, it's that peace of mind.

[0:26:10]

FT: Well, sticking with mistakes, what are some other common missteps that you find people make when they're, whether it's – besides, of course, not doing this at all. But when they're in it in the beginning and they're establishing their wills and they're identifying the things, what are some of the oversights or missteps that you find are common?

[0:26:29]

HZ: Sure. I think it can be a really overwhelming process to sit down and think about what is going to happen potentially decades in the future with a family that I don't know the full shape of yet. So, people tend to get a little bit lost in the sauce early on. So, you could spend months and months figuring out how you want every asset to flow, what should happen if this person passes away before you? How are things going to flow for generations to come, and you could have that sort of immobility. You just can't react; you can't move forward in your planning. This is an iterative process, it is not a one and done, these should be living documents. Get something done, so that is the first thing. Get something done, get something in writing, and then revisit it as you feel necessary.

Again, if you're doing it with these online tools, that can be very easy and expensive. With an attorney, of course, there's a little bit more cost to that, but it's that balance of peace of mind versus cost. The other thing that I would say we see way too often is, you go, you get this wonderful estate plan executed. It has all of your wishes, you've got a beautiful will, you've got a beautiful trust, you walk out of the attorney's office with a big old binder that has all of these instructions, you put it in the back seat of your car, and that's it. You never do anything with it. You think about particularly the trust.

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That trust is a lock box in some ways, but if you put nothing into it, it serves no purpose. So, if you are creating a trust and you never retitle any of your assets into that trust to fund it, that trust is not worth the paper it's written on. Again, think about, if I have my revocable trust, my attorney is probably going to send me out with instructions to say, let's execute a new deed, which that attorney should be doing for you to put the home in the trust. Let's retitle any of your bank and investment accounts into your trust. If you have retirement accounts, we are maybe naming that trust as beneficiary. They're going to give you a whole set of instructions. If you don't follow through on those funding steps, again, that trust has absolutely no purpose.

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FT: Now, I'm like, "Did we do that?" I'm in New Jersey and I don't even know if our attorney, if we have a revocable trust, I think we probably do, but I don't remember him giving us a checklist of things to do post-meeting.

[0:29:14]

HZ: That is a good thing to check on after this call.

[0:29:16]

FT: Yes, okay. Anybody else have questions? We have a number of people on the workshop with us. Feel free to unmute yourself and share your question. You can also share a question in the chat. But I just want to say, Heather, so far, this has been so great and reaffirming. I think, hopefully calming for those of us. It is a big step, but you've broken it down very nicely and neatly, but I'm sure we have questions.

[0:29:42]

HZ: Take the baby steps.

[0:29:44]

FT: If you have questions, don't be shy. I'm going to give us a couple of seconds. If anybody wants to take the floor, otherwise. I'll just fill the air. But I want to give our participants here an opportunity to ask questions too.

[0:29:54]

FEMALE: Hi, good morning. I have a question. What happens? What's the difference between my fidelity if I have someone, a beneficiary versus a trust if I have someone different?

[0:30:06]

HZ: Great, great question. If you are naming a beneficiary on an account, the first thing I'll say is, that is another way to avoid the probate process. Anything that has a beneficiary designation is going to pass outside of probate, so you're not worrying about that open public process. Now, the other piece of this is, if you have a beneficiary designated on an account, and then, you create a trust, that account is not going to come under the purview of that trust. The only way that your fidelity account, for example, is going to be held to the terms of your trust is if you actually retitle that account into the name of the trust if we're talking about a non-retirement account. Retirement accounts can't be retitled into a trust during life. It would cause a full distribution, but you're maybe naming the trust as beneficiary there.

But yes, really important distinction, that if you have accounts that are passing by beneficiary designation, they are not going to be part of that trust.

[0:31:03]

FEMALE: Okay. Thank you.

[0:31:04]

HZ: Great question.

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FT: Just to re-establish, why is a trust important? Because if you have the will and you have your designated beneficiaries, and you have a spouse, where everything's just going to go to them. I guess this is like maybe if both of you pass on or – where does the trust begin where the will ends?

[0:31:25]

HZ: Great question. The trust actually, I would say, steps in before the will. So, in a period of incapacity, your trust is going to say, "While I'm incapacitated, I want my money to be spent in this way. I want this type of care. I want my assets to be protected in this certain way until I either pass away or exit that period of incapacity." I think for some folks, having a great will and having beneficiary designations, that's going to get you 99.9 % of the way there.

The trust steps in to add a little bit of extra control. I was mentioning earlier, I'll use this example because this comes up a lot is, mom and dad have a couple of kids, they know that they want their kids to get their assets, but they are not so sure that they want their kids' spouses to get access to those assets. Now, if mom and dad name their child outright as a beneficiary on an account, when they pass away, that child gets that money and it is theirs to do with as they please, it gets commingled with their other assets that their spouse has access to.

If, on the other hand, mom and dad name, retitle that account into their trust, they can say, "When we pass away, we want this money to actually stay in trust, and to be used only for the benefit of our child. Their spouse cannot access it. Maybe their children can access it. But if there is a divorce, if there's anything, there's some added protection there." That gets into a little bit more complexity, because if that trust continues after the original grand tours, in this case, mom and dad pass away, it becomes irrevocable. Then, we get into some of those trickier tax situations. That might be a little bit more than we want to get into for this conversation. But there's always a balance of control versus maybe the tax efficiency.

If the primary concern is, I just want my kids to have access to my assets and they can do with it whatever they want, beneficiary designations are probably going to get you there. If there's any extra control that you want to put in there, the trust is going to come into play. Then, again, for that period of incapacity as well.

[0:33:44]

FT: Beautiful. Thank you. That answered it. We have a question from the audience. How should those who plan to be child-free look into estate planning? What types of conversations do dual income, no kids folks, dinks, love it, need to have to work through this process?

[0:34:04]

HZ: That is a great question. As a proud child-free woman myself, one that hits close to home. It is, in some cases, simpler, but it's also a little bit more expensive. Because for folks that have children, it's pretty clear, I want my children to get my assets, their children to get their assets, et cetera, et cetera. For me, I don't have children and don't intend to have children. So, who do I want to get my assets when I pass away? I could still let the state government decide if I don't want to have a will or a trust. I personally don't want to do that. It's still very necessary so that you have that peace of mind of knowing, okay, when I pass away, my assets are going to go where I want them to. That could be to other family members. It could be to charity.

In some ways, again, it's a bigger question for child-free folks because there's not that answer of, "It's going to go to my kids." It's still something to really consider carefully if you are concerned about what happens with your asses when you pass. If you're not, then hey, pretty easy.

[0:35:11]

FT: Yes. Wow. What are some other interesting trends you're seeing that has changed the estate planning practice? Whether it's increasing numbers of people who are choosing to be child-free, it's more blended families, it's women living longer. I don't know if that changes anything or creates new considerations for clients.

[0:35:34]

HZ: Definitely, yes. All of the above, we're seeing all of those things. I think for women in particular, again, if you are in a married couple with a man, the expectation is, you're probably going to outlive him. That means that, there are additional concerns. So, you're going to be in control of all of that wealth at some point in time. Some of the estate tax strategies that we would talk about for a married couple, those go away. So, you're left with the wealth without any real strategies. So, it's again being thoughtful and forward thinking about what do I want to have happen when I am actually controlling this wealth.

Similarly, I think we're really seeing a lot of uncertainty when it comes to the legislative picture, where taxes are going to go in my line of work. For a lot of folks, estate taxes are not a concern right now at the federal level. You can pass away with almost $14 million in assets and not pay a penny of federal estate tax, but that is a moving target. States often have lower estate tax threshold. So, just to pause here really briefly. The estate tax in general means if you pass away with assets that exceed a certain level, whether in your state or at a federal level, your estate is going to pay taxes before your beneficiaries get any money.

A lot of the conversations that I have been having are around how do we stay flexible in these uncertain times to really ensure that no matter what happens with the tax law, my family is as protected as they can be. We're thinking about things as tax-efficiently as possible, but we're not locking ourselves into these really rigid irrevocable trust structures that we might not need. That's been a big area of concern.

[0:37:31]

Then, another thing that is just by the nature of the world that we live in is your digital life. Not only, I think when we talk digital assets, the first thing that comes to mind is your crypto wallet. Yes, that is an important thing that you want to have contemplated by your estate plan, but it's also your Facebook, your Instagram, your TikTok. What is going to happen with your online presence when you pass away? That is over the last probably 10 years, planning for digital assets has become really important. I think if you don't have a massive crypto wallet, people don't really think about it.

But take the example of, let's say you pass away and you have a Dropbox, let's say that has all of your family photos scanned digitally. The password for that Dropbox requires multi-factor authentication, so an email goes to your email account. If you have passed away and you have not accounted for what happens to your online presence, your executor cannot access that Dropbox. They cannot get into your email. They cannot do any, they can't disable your Facebook. Those are things that you want to contemplate in your estate plan, but also look at the direct provider.

Go to Facebook, look at what their, I think, they call them their legacy provisions are. Most of the social media platforms have them, but it's something you want to be aware of. I would not have thought about it when I got into this business, but now it's a huge thing to be concerned about.

[0:39:06]

FT: Wow. Yes, I have not done that. It just got me. I was like, "Wait, I have a very giant Dropbox of 20 years' worth of documents." It's something to think about too, if you run a business and you have business partners and you've been – maybe you have a cloud system that you all share and maybe you have important documents. Like you're the one who's been holding the LLC documents or what have you. That needs to be, I also feel like have a little meeting. This is where we're going to keep everything as we wait for all this stuff to unlock. God forbid something happens to one of us, we can keep the lights on, we can keep the website up or whatever it is, because I'm the one who's been doing all of the back-end and I have not been sharing the passwords.

[0:39:54]

HZ: It's so true. I think to that end, it's also, we've been talking a lot about full estate plans. Something else very simple that anyone could do is a, I call it a key records inventory. If you Google it, you can download templates anywhere. But it is a physical list where you're going to say, "Here's where my insurance policies are. Here's where my bank accounts are. Here's where my brokerage accounts are. Here's the garage code. Here's the password to my whatever online account." Those can all be put on a physical worksheet, and put them in a lockbox that you have with your estate plan, or what have you, or make sure that someone knows how to access that document. That's a step that anyone could take today, to just move things forward in helping their family and their loved ones when they pass away.

[0:40:44]

FT: Oh my God. So, key records inventory. I think this is also a great use of AI, like using a ChatGPT to say, "What do I need to talk to my spouse about, my business partner's about, is there a list?" Cecile has a question for you. You mentioned marriage as a big life event to, for example, update your plan. Not currently – Cecile does not currently have one of her own, but she will be getting married within the year. Do we have more detail on a suggested timeline or setting up a trust for the first time? Is it like a few months after getting married, as soon as possible within the first year?

[0:41:23]

HZ: Yes. I wouldn't say that there is a specific timeline. I think, first of all, getting something in place, Cecile, today for yourself would be great. But it's – if you think about, once we've started to really combine finances, and maybe we have a home that we are both on the deed too. That's when everything really starts to get intermingled, and that trust planning can start to be beneficial. Some folks, I will see keep the basic will, and then, beneficiary designations up until they maybe have children, or if they're not having children, up until they reach a net worth that they start to feel like, "Ooh, things don't really feel great just passing by beneficiary designation.l Then, that trust planning can come in. I wouldn't say that there's a prescribed timeline for the trust planning. It's more of situational, but certainly get at least a will in place.

[0:42:18]

FT: Yes. We've answered a lot of questions. If you're not legally married, a lot of us, we talked about trends. A lot of us are like, "No, don't want to get married. I have a life partner and we're happy." What happens there? Is there an extra step you have to take because you're not technically married? Because there's no pass, there's no automatic goes to my spouse.

[0:42:37]

HZ: Yes. So that is, you kind of hit the nail on the head, even more important in that case, I would say to have a written estate plan. So, if you do not have a written estate plan, meaning you don't have a will, and you pass away, you die in a state of what is known as intestacy. That is when the state comes in and says, "Okay, based on who you are, these are the people getting your assets." For every state, if you pass away married and you are intestate, your spouse is going to get either all or a good chunk of your assets. If you have children, your children usually will get some as well.

Being unmarried, there is no guarantee that your spouse is going to be able to access any of your – or your non-spouse rather, will be able to access any of your assets when you pass away unless you have beneficiary designations. Again, having that will as a catch-all for anything that you maybe can't put a beneficiary designation on is going to be huge. Then, really, it's just having that forethought of, if we are not married, and therefore, we don't have a prenuptial agreement or anything of that. Do I want to contemplate what happens if I'm incapacitated for a long period of time and my partner decides to move on? There are things that you want to think about that just because you don't have the legal protections of a marriage. Just to make sure that you have that, again, control over how your assets are distributed when you are either incapacitated or passed away.

[0:44:05]

FT: Yes, that's a really important point. Sometimes when people don't get married, but they do combine their lives, share their lives, they'll get a contract of a prenup. They're in lieu of just fighting. It's really, there's no legal entity that's because you live together for 20 years, this is what – that's unique to the United States. Other countries, it's not like that. I think in Canada, if you live together and you share a home together and you're not married, there's something like after a certain period of time, becomes shared property.

[0:44:36]

HZ: Yes, and there are a handful of states in the U.S. that have that as well. It's rare, it used to be more common. It's called a common law marriage, but very few states have it, so simply cohabitating doesn't guarantee anything. But you're exactly right. you could have a cohabitation agreement. You can really contract around just about anything. So, certainly, that's something that you could explore as well absent to a prenup.

[0:45:02]

FT: Yes. If you have a life insurance plan, do you have to make any special requests or rules about the life insurance in your estate plan? This is how I want the life insurance to be used in the event that I pass away.

[0:45:19]

HZ: Typically, your life insurance is going to have a beneficiary designation. That could be your spouse, could be your children could be whomever. Again, anything that passes by beneficiary designation is going to operate outside of your estate plan. That being said, in some cases, folks will name their trust as their beneficiaries so that they have that additional control over exactly as you said, how is this money to be spent? There are some other common uses of life insurance in the estate planning process, usually for folks that are worried about paying estate tax. In some cases, your life insurance will then be held in an irrevocable life insurance trust. Any idea between an eyelet is really to provide liquidity to help pay the estate taxes. Again, that's dealing with higher net worth, or in states that have a low estate tax threshold.

[0:46:12]

FT: Heather Zack, thank you so much Hang it out with us. I know that you're in the midst of a work trip and you're making time for us. This was invaluable information. I have some to-dos, the digital inventory, key records inventory.

[0:46:27]

HZ: Yes, everyone, get that key records inventory filled out, put it somewhere safe, tell people where it is, people that you trust.

[0:46:35]

FT: And if we want to work with you or follow up with you, what's the best way?

[0:46:39]

HZ: Absolutely. I am at hzack@commonwealth.com. You can also find me on LinkedIn. I spend a lot of time on there. But yes, happy to speak with anybody. Appreciate this, tis has been so fun. Great break from the conference.

[0:46:55]

FT: Oh, that's nice to hear. Thank you so much, and thanks everyone for tuning in.

Thanks so much to Heather Zack for joining us. If you'd like to follow up with Heather. I've got her information in our show notes. If you'd like to explore the So Money Members Club, give it a try. Head over to www.somoneymembers.com. Next month, in May, we're going to be talking about five to nine plans. A lot of us are concerned, given where the market's gone, if we're going to have enough to pay for college, plus the fact that college is just crazy expensive these days. Thanks again for tuning in, and I hope your day is so money.

[END]