

## MAY 2026 NEWSLETTER

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# ESTATE PLANNING FOR THE NON-TRADITIONAL FAMILY

In decades past, the “traditional” family of a husband, wife and their biological children made estate planning drafting simple and straight forward. However, in modern times married households have fallen to 48% and what was once considered a “non-traditional” family is now what a “normal” family looks like. Non-traditional families make up the bulk of households in the United States including single-parent households, cohabitating couples, divorced couples, blended families, children by multiple partners, same-sex or LGBTQ families, families caring for aging parents, adoptive, step or foster families and grandparents raising grandchildren.

In many of these instances, a person, especially children, may have a stronger relationship with a stepparent or partner than they do with his/her birth parent or biological relative. Modern estate planning must take into consideration the specific facts and circumstances of these “non-traditional” families because the default inheritance laws in most, if not all, jurisdictions, are often very old and still based on antiquated ideas of what a “traditional” family is. If your family fits any of the aforementioned descriptions, this month’s newsletter will discuss a few considerations to think about to create formal estate planning documents that protect your non-

traditional family members.

Under most default inheritance laws, if someone dies without a will, the person's property is usually divided between his/her spouse, if still living, and his/her biological children. However, if you have a "non-traditional" family, perhaps you don't have any biological children, only step-children whom you treat as your own. If you pass away with no will, your step children do not inherit any of your property. Another modern day example is a situation where two people have cohabitated for many years as partners, but never married. If one of the parties passes away without a will, the other party is left with nothing under the default inheritance laws in most jurisdictions.

The best way to safeguard your estate is to draft formal estate planning documents so that you have control over what happens to your property after you are gone. This is especially true if you have a "non-traditional" family. In drafting a will, you can generally bequeath your property in any way you wish – this includes leaving property to children or step-children who are not biologically yours or to your beloved partner of many years to whom you were not married.

Other similar documents that are essential for non-traditional families to consider so you don't leave anything to chance are powers of attorney, advance health care directives/living will, cohabitation agreement, designation of beneficiary on insurance and retirement plans so your other unmarried partner can be legally protect and/or have a role in making decisions. Otherwise, your partner or step-children may not be able to visit you in the hospital or intensive care, participate in end-of-life decision making, inherit your property or keep property you owned together notwithstanding you shared a home but not a marriage license.

Lastly, another tool in estate planning that can be especially useful in modern times is the prenuptial/premarital. In the past, prenuptial/premarital agreements used to be viewed as something that were only utilized by the "rich" and "famous" or that the person asking for the prenuptial/premarital agreement was already thinking that the marriage was doomed to fail. However, in reality, prenuptial/premarital agreements are a really useful tool to plan for the future, especially since divorce is a common occurrence for adults, namely about 50% for first marriages, increasing to 60% for second marriages and up to 73% for third marriages. If you enter into a prenuptial/premarital agreement prior to your marriage, both parties are able to have a say in crafting a plan for what happens if you or your spouse decide to end your marriage. This small pre-planning step could save you a good deal of time and money in the future.

Each individual's situation is different and has nuanced facts and circumstances. Whether your family situation is "traditional" or "non-traditional," kindly **contact our office** to speak with one of our Estate Planning attorneys to discuss your specific facts and circumstances so that we can help you create an Estate Plan that is tailored to your specific family needs and requirements.

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## Publications

The following professional publications and newsletters written by attorneys of this office are available here: <https://pozzuolo.com/e-newsletter-publications/>

### Corporate/Tax

- Design Buy-Sell Agreements For Maximum Utility
- Deferred Compensation Rewards And Retains Key Employees
- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Money Purchase Pension Plan Falls Out Of Favor
- Why An Employment Contract Is Mandatory
- What Type Of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- How To Look, Act And Sound Like A Professional Corporation
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How to Structure a Suitable Buy-Sell Agreement

### Estate Planning

- Estate Planning For Pet Owners
- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Diversify Strategies For An Effective Estate Plan
- Use Wills To Maximize Family Protection And Minimize Tax
- Six Proven Estate Planning Techniques
- Divorce Raises The Need For Performing An Estate Planning Review
- Divorce and Estate Planning
- Remarriage Situations Can Raise Special Estate Planning Considerations
- College Funding Tool Offers Estate Planning Advantage
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Why Living Wills Advance Directives Are An Essential Part Of Estate Planning
- Special Needs Trust - An Estate Planning Tool For The Disabled
- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples

*Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.*

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