O'NEILCANNON
HOLLMAN DEJONG & LAING S.C.

TAX AND WEALTH ADVISOR ALERT: CONSIDERATIONS WHEN APPOINTING A FIDUCIARY

Various estate planning documents require you to appoint someone to act on your behalf. These appointees are your "fiduciaries" and include your personal representative, guardian for minor children, trustee, attorney-in-fact, and health care agent.

Often times, people name certain individuals for these roles without much consideration, or they may consider the wrong criteria. Below is a general description of each fiduciary role and a few suggestions on what to consider when deciding who to appoint to those roles. In general, you should carefully consider the skillset each role requires and whether the person you would like to appoint possesses those skills.

Personal Representative

You name your personal representative in your Last Will and Testament. Your personal representative will be responsible for overseeing the administration of your estate during the probate process. Consider naming someone who lives nearby so they can administer your estate and someone who will have the time to file all the necessary paperwork.

Guardian

You name a guardian for your minor children in your Last Will and Testament as well. This person will be responsible for taking care of your minor children. Consider naming someone who lives close by so your children won't have to move (or move very far), has similar values as you and will raise your children similar to how you would, and will have the energy to raise young children or children who require extra care and attention.

Trustee

You appoint your trustee in your trust agreement. Your trustee will administer the trust agreement pursuant to its terms, manage and invest the trust assets, and make distributions to your beneficiaries (sometimes at their own discretion). Consider naming someone who will be able to understand the document and its terms, has a financial background and can manage your assets effectively, and will not be placed in an uncomfortable situation if they

decide to refuse a beneficiary's request for a distribution. If you cannot think of someone with the requisite skillset, or if you have complex assets that will need to be managed, consider naming a professional fiduciary.

Attorney-in-Fact

You name your attorney-in-fact in your Financial Power of Attorney. This person will manage your financial affairs in the event you become incapacitated. Consider naming someone who has a financial background, lives nearby and can easily manage your financial affairs, and who is familiar with your financial affairs. If you cannot think of someone with the requisite skillset or someone you completely trust to have these broad powers, consider naming a professional fiduciary.

Health Care Agent

You name your health care agent in your Power of Attorney for Health Care. This person will make medical decisions for you in the event you become incapacitated. Consider naming someone who has a medical background or who will be capable of understanding your medical situation, will respect your wishes regarding medical treatment, and will be able to carry out your wishes regarding medical treatment even if others disagree.

As you can see, there are several things to consider when selecting a fiduciary. If you would like more information on these fiduciary roles, or if you would like to create or update an estate plan, please contact attorney Kelly M. Spott.