Trusts and Estate Planning Tips for the LGBTQ+ Community

June 27, 2023
By Candace Dellacona

Pride Month is an important time for celebrating the LGBTQIA+ community and promoting equality, acceptance, and visibility. Estate planning is a crucial aspect of personal financial planning for individuals and families, regardless of their sexual orientation or gender identity. Here are six trusts and estate planning tips for the LGBTQ+ community that may be particularly relevant during Pride Month:

1. **Wills and Trusts**: Creating a will or a trust is essential for ensuring that your assets are distributed according to your wishes after your passing. Without a valid will or trust, your estate will be subject to intestacy laws, meaning New York State will determine who will inherit from you and in what proportion. The rules of intestacy may not align with *your* intentions or benefit *your* chosen beneficiaries. By creating an estate plan, you have the opportunity to specify how you want your assets to be distributed, including to your chosen family, friends, or organizations.

2. **Beneficiary Designations**: Review and update your beneficiary designations on all of your financial accounts, including retirement accounts, life insurance policies, and other financial accounts. Ensure that the named beneficiaries reflect your current wishes. If you are in a relationship that is not legally recognized, it's imperative that your loved one is designated as a beneficiary.

3. **Healthcare Directives**: Consider creating advance healthcare directives such as a healthcare proxy and a living will. These documents allow you to appoint someone to make medical decisions on your behalf and outline your preferences regarding medical treatments and end-of-life care. Selecting a trusted person who will respect your wishes, including your chosen family or partner, is crucial to ensure your healthcare wishes are honored. If you do not have these documents in place, many states, like New York, allow your next of kin to make end-of-life decisions for you.

4. **Guardianship for Your Children**: If you have children or dependents, it is vital to establish guardianship arrangements in case something happens to you. Ensure that your estate plan specifies who you want to care for your children and provide for their well-being. This is especially important for couples who are not legally married or who may face additional legal complexities in some jurisdictions due to the lack of protection or recognition of LGBTQ relationships.

5. **Your Local LGBTQ+ Laws**: Understanding the laws and regulations regarding LGBTQ+ estate planning in your jurisdiction is so important. Laws can vary by country, state, or even local jurisdiction, and they may impact your ability to protect your chosen family, distribute assets, or claim inheritance rights. Consulting with an estate planning attorney who has experience in LGBT estate planning is imperative.

6. **Nondiscrimination Language**: When drafting estate planning documents, you should consider including non-discriminatory language to ensure that your wishes are carried out without prejudice or discrimination based on sexual orientation or gender identity. This will help protect your loved ones from potential challenges to your estate plan based on

discriminatory interpretations or actions.

Please feel free to contact me to navigate the legal complexities of LGBTQ+ estate planning and to ensure that your estate plan aligns with your goals and values.