

*Kris M. Paden, Esq.*  
 — ESTATE PLANNING ATTORNEY —

## Estate Planning Newsletter

### HOW TO NAME A GUARDIAN: BY KRIS PADEN

A Guardian is the person who is responsible for raising your children if you pass away while they are still minors. Estate Planning allows you to nominate the guardians you would want to raise your children. Without the proper estate plan in place, the courts might select guardians that you would not have chosen. Even if you leave informal evidence of your wishes, courts are not bound to follow this. Act now to protect the future of your children.

Keep in mind that those you think of right away may not really be the best choices.

For example, Grandparents are not usually a good choice. Even if your parents are in good health now, they may not be when

your children are teenagers. Before naming a close friend, rather than a relative, you should consider how much interaction you want your children to have with your extended family. Remember that children who have experienced the extreme trauma of losing both of their parents will need lots of family support and interaction. Typically, the best choice is a sibling. You should also consider that your sibling-in-law will also become a major part of your child's life.

**HOT TIP:** If you are naming a person who is married to serve as guardian, do not list the spouse as guardian.

If possible, try not to pick someone as guardian who lives in a different part of the country. Your child may be old enough to have established roots in his or her home area. **HOT TIP:** Always appoint successors in case the person you select cannot serve or predeceases you.

When a couple is married and the surviving spouse is the biological parent of the decedent's children, the surviving spouse is automatically the guardian unless someone challenges them as unfit to take care of the children. If the parents are divorced and the

custodial parent dies, the surviving birth parent is not automatically the guardian of the child. Unless someone challenges the

surviving parent as unfit, however, the birth parent will almost always be appointed by the Probate court as the guardian upon the birth parent's petition to the Probate Court. The person you name as Guardian would be required to personally appear in Court to petition to serve as guardian. Unless there is a challenge to the Guardian's appointment or a showing of unfitness, your testamentary designation will be honored.

You can make naming a guardian of your minor children a positive experience. Getting past this decision smoothly and efficiently is the best way to achieve peace of mind and happiness.

**One of the most important decisions in Estate Planning is deciding who should be named to care for your minor children.**

Kris Paden graduated at the top of her class from the UC Berkely and University of the Pacific McGeorge School of Law. She has practiced in Los Angeles for over 15 years and specializes in estate planning, including drafting Wills, Living Trusts, Advance Health Care Directives, Durable Powers of Attorney, Special Needs Trusts and Probate and Trust Administration. She also forms and annually updates Corporations and LLCs. Kris has found her passion in Estate Planning and runs her practice to help individuals protect everything they hold dear.

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MAKING SENSE OF INVESTING

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**Analyzing Your 2010 IRA: Tax Planning Strategies**

By: Josh Nyholt

For 2010, new tax laws have reinforced the importance of taking a careful look at your tax planning strategies, including your IRA tax planning.

An important tax planning question to consider in 2010 is “Should I convert my tax deferred retirement account to a Roth IRA?” Beginning in 2010, the IRS has eliminated the modified adjusted gross income and filing status requirements for converting certain tax deferred accounts such as a traditional IRA to a Roth

IRA. This may be an opportunity for some that previously could not contribute or convert to a Roth IRA account due to income limitations or filing requirements. There are also some options on paying the tax on the conversion.

There are many factors to consider before converting your tax deferred retirement account to a Roth IRA. Now is a great time to discuss your IRA options with your CPA to help plan for the future.

**Retirees Must Make (At Least) Five Key Financial Decisions**

Once you retire, you’ll have several financial and investment decisions to make. Here are five of them:

- How much will you spend each year?** Your spending habits will affect your investment decisions.
- How should you balance your investment portfolio to provide sufficient income and growth opportunities?** You’ll need both growth and income potential during retirement.
- How much should you withdraw each year from your investment portfolio?** You need to withdraw the

right amount to avoid depleting your portfolio.

**From which accounts should you begin taking**

**withdrawals?** You may want to withdraw from your taxable accounts first, followed by your tax-deferred accounts.

**When should you take Social**

**Security?** You can get bigger checks by waiting, but your choice really depends on when you need the money.

After you’ve made these key decisions, you can create the financial strategy you need to enjoy an active, fulfilling retirement.

-Contributed by Gina Lapiner for Edward Jones