



MAN AND SUPERMAN: WOMEN AND ESTATE PLANNING



Take care to get what you like or you will be forced to like what you get.

—George Bernard Shaw

Abigail Adams. Dolly Madison. Wilma Flintstone. All tremendous women who made their men better. Is it any wonder that many believe women are the stronger of the two sexes? As Shaw noted in his play *Man and Superman*, woman is the real superman.

You have heard the statistics before. Women have a life expectancy of five years longer than men. Married women can expect to live 14 years as widows. Not surprisingly, three out of four wives survive their husbands.

So, do women have different expectations from their husbands in estate planning? Yes.

You may be familiar with the inherent conflict that second marriages can create. Sometimes there is a tension between supporting the surviving spouse and assuring that the children from the first spouse will receive an inheritance.

Some wives are concerned that, after they pass on, their husbands may remarry. While the remarriage part sometimes causes concern, the idea of leaving wealth to a new spouse (or stepchildren) is often troubling to a current spouse. Statistically, widowers are significantly more likely than widows to remarry.

If the surviving husband receives wealth from the predeceased wife in trust (rather than outright), the trust can provide safeguards and some assurances to the predeceased wife. Specifically, the wife can be better assured that her children may ultimately receive an inheritance.

And what about the more common situation where the wife survives the husband? What if the wife is not the mother of her husband's children? A problem can arise when she discovers that her husband's children are critical of her use of the trust assets.

This issue is especially challenging with retirement accounts. What happens if a husband leaves his retire-

ment accounts to his second wife? If she inherits the accounts outright, she can then leave them to her own children or to a favorite charity when she passes on. So what is the husband to do if he wants to leave his retirement accounts to his second wife and then have the assets ultimately pass to his children?

Many a husband seems to leave the decision to the surviving wife and simply hopes that the wealth will ultimately find its way, at least in part, back to his children. Another, more thorough alternative, is to consider the "Trusted IRA."

The Trusted IRA will allow the husband to benefit his surviving spouse and also have some assurance that his children will inherit whatever may remain of the retirement assets. Note that the Trusted IRA is particularly complicated to draft and is no guarantee that his children will ultimately receive an inheritance.

Men sometimes drive the estate planning process while women are often the ones who live with the planning decisions. Unintended consequences sometimes occur. If Abigail Adams, Dolly Madison, or Wilma Flintstone lived in an age as complex as ours, be assured they would understand the nuances of their estate plan.

◆ Attorney Rita E. Luce has submitted her comprehensive and scholarly chapter to IICLE on post-mortem retirement account planning.



Lois Lane (and all women) is the real superman.