

ESTATE PLANNING 101

What will happen to your assets when you pass away?

Your estate plan describes your wishes for how your property should be distributed after your death.

5 GOALS OF ESTATE PLANNING

Eliminating the inevitable confusion
that exists without a will.

Choosing the legal guardian who
will raise your children.

Ensuring that your assets will be
distributed to your loved ones as
you see fit.

Minimizing taxes.

Creating peace of mind
before you die.

Estate Planning Terms to Know:

- **Estate** – All the property you own at the time of your death, including assets and debts.
- **Property** – Real property includes land and structures as well as the assets associated with them. Personal property is everything else, like household items, bank accounts, cars, insurance policies, stocks, bonds, and loans.
- **Beneficiary** – Anyone that inherits money. You can have one beneficiary or multiple beneficiaries.
- **Grantor** – The person transferring property to beneficiaries.
- **Trustee** – The party that handles the administration while executing the will and distributing the property. Also called the fiduciary.
- **Probate** – The legal process followed by the court system in your state to determine your heirs and distribute the property to them.

UNDERSTANDING WILLS

A will must meet several requirements to be legally valid.

You must be of sound mind and body at the time the will is prepared.

You must fully understand the nature and extent of the property you possess.

In most cases, you must be at least 18 years of age.

The will has to be signed, dated, and witnessed by a certain number of people.

Many states require that the signing of the will be notarized.

More Terms to Know

Testator - The person who died and has a will.

Executor – The person named by the testator to execute the will.

Guardian – The person named in the will or appointed by a judge to care for minor children or an adult with special needs.

3 Things a Will Can't Do:

Avoid
probate.

Disinherit
your spouse.

Leave an excessive amount
to charity when there are
surviving children or a spouse.

Although it's possible to prepare a will without an attorney, it's not advisable.

UNDERSTANDING TRUSTS

A trust is an agreement that dictates how property will be held and managed for the benefit of another individual.

4 Common Trust Classifications

Revocable – Can be changed by the grantor during their lifetime.

Irrevocable – Can't be changed by the grantor once established.

Living Trust – Property is transferred to a trustee while the grantor is living. It can be taken back by the grantor.

Testamentary Trust – Created by a will after the grantor dies.

“A good plan violently
executed
now is better than a perfect
plan next week.”

- ***General George S. Patton***

MARITAL AND NON-MARITAL TRUSTS

Marital Trusts : 3 Forms

Qualified Terminable Interest Property Trust (QTIP) – Provides for surviving spouse during their lifetime. The spouse receives payments from the trust but has no control over the trust upon their death. The remainder then goes to surviving children.

General Power of Appointment Trust (GPA) – Provides the most control to surviving spouse. Spouse receives income for life, then controls what happens to the balance. Use if no children.

Estate Trust – Provides income to surviving spouse.

Non-Marital Trusts

- Also known as credit shelter trusts or bypass trusts.
- Non-marital trusts can also provide for your spouse and your children, but they're able to avoid estate taxes for your estate and the estate of your spouse.
- This type of trust is usually irrevocable and names your spouse and children as beneficiaries.
- The trust must exist for at least 3 years before the grantor's death. Otherwise, the trust will be voided.
- As long as the three-year rule has been met, the assets of the trust are excluded from your gross estate and shielded from taxes.

Qualified Domestic Trust (QDOT)

Used when a spouse is a non-citizen as there's a limit to how much money you can give a spouse who is a non-US citizen.

Allows your spouse to receive income for life, but they're unable to access the principal. Children are excluded from this type of trust.

In 2013, the limit you can gift to your spouse if they aren't a US citizen is \$143,000 per year.

Many rules and regulations accompany this type of trust, so consult an attorney for more information.

Irrevocable Life Insurance Trust (ILIT)

Often used for the estates of wealthy families.

Funded with a life insurance policy that avoids taxes for estates of both spouses.

The trust owns and is the beneficiary of the policy, but your heirs are beneficiaries of the actual trust.

A three-year rule says the trust must exist for 3 years before your death.

Expensive to set up and usually irrevocable.

CHARITABLE TRUSTS

In general, gifts given to a charity at death are deductible from the estate and there's no limit on the amount.

Charitable Remainder Trust

- A charitable remainder trust is a great estate planning tool for anyone with appreciated assets like stocks or real estate.
- **This trust allows you to sell** these assets without having to pay a capital gains tax.
- This is a great way to transfer these types of assets, reduce estate taxes, and get the charitable income tax deduction.
- You still get the income from those assets!

Charitable Lead Trust

- This trust serves to reduce the amount of your current taxable income.
- The trust donates a portion of the income from the trust and then transfers the remaining portion of the trust to the beneficiaries after a period of time. This allows the beneficiaries to pay less in gift taxes and estate taxes.
- You also receive a federal tax deduction equal to the value of the annual trust payments made to the charity.
- Many organizations are happy to help you set up this type of trust.

TAXES AND YOUR ESTATE

FACTS YOU SHOULD KNOW:

- Estate taxes are commonly referred to as a 'death tax.' It taxes property that's transferred or received at the death of the owner of that property.
- Inheritance tax is a state level tax and not found in all states.
- Estate tax is a federal tax on the estate itself. It's not technically a tax on those that are receiving property from an estate. Inheritance tax is imposed on the person or party receiving the property.
- Regarding estate taxes, anything about the estate exclusion amount is subject to federal taxes. That amount has risen considerably over the years and has been set permanently at \$5 million with adjustments made for inflation. An estate tax return has to be filed if the estate is valued above this level.

More About Estate Taxes

1—How Taxes are Calculated:

Estates are taxed on their net value.

To find net value, start with the gross value.

The gross value includes all the estate's assets.

Includes all the probate and non-probate assets.

2—These Items are then Subtracted From the Gross Estate Value:

Funeral expenses.

Claims against the estate like unpaid taxes and legal actions.

Unpaid debts, including mortgages.

Expenses related to the administration of the estate.

The Role of Life Insurance in Estate Planning

- Life insurance has a place in most estate plans.
- For those with modest estates, life insurance is not necessary for reducing taxes.
- For most of us, an insurance policy is strictly a source of funds for our beneficiaries.
- Generally, funds received from an insurance policy are not taxed, but this isn't always true.

2 TYPES OF LIFE INSURANCE USED IN ESTATE PLANS:

Survivorship Life Insurance Policy

- Also called a 'second to die' policy, it insures two or more people, but only pays when the last covered person dies. The premium is lower on this type of policy than for the next policy.

First to Die Life Insurance Policy

- Covers two or more people, but pays when the first person dies. These policies typically cover a married couple or a parent and child.

Choosing beneficiaries for life insurance policies is a tricky decision.

- Although it's less expensive than a trust because you're naming one individual, choosing a beneficiary for life insurance still presents some challenges.
- First, you'll lack control over how the insurance money is spent.
- Next, if you're survived by a minor child, someone else has to be appointed to receive the money, which could be an ex-spouse.
- The situation is different if the estate or a trust is named as the beneficiary. Naming the estate as the beneficiary includes the insurance proceeds as part of the gross estate and will increase the probate costs. These funds are also available to creditors.
- Using a trust as the beneficiary can provide much more flexibility and protection from creditors.

HEALTH ISSUES AND OTHER CONCERNS

Who will make decisions when you can't? Include it in your estate plan.

Designate someone to make your health decisions using a durable power of attorney.

A financial power of attorney allows someone to make financial decisions on your behalf.

Living wills describe your wishes regarding life support and it relieves family and friends from having to decide.

You can plan your own funeral as part of your estate plan to make it easier on your loved ones.

In a post-mortem letter, you can describe location of assets, list professionals who may have important records, and say goodbye to loved ones.

***Estate planning is important.
Set up a plan soon to provide
for your spouse or children
and protect your loved ones
from having to make painful
decisions!***