

Estate Planning

Planning for the management and distribution of your property and assets is important for everyone. An up-to-date estate plan should save most families time, grief and expense following the death of a loved one.

What is Estate Planning?

A proper estate plan puts your property and resources to the best possible use for you during your lifetime, and for later distribution to "beneficiaries" after your death. Your "beneficiaries" (sometimes called "heirs") are those people you want to receive your money and possessions after you die. Your plan may also specify persons and arrangements to care for you, and those who are dependent on you.

In many cases, good estate planning protects your property if you become disabled or need assistance during your lifetime. Proper estate plans also reduce or eliminate substantial taxes and costs during lifetime and at death. A well-designed plan considers each of the following:

- Lifetime Planning for retirement, taxes, possible disability, and against creditors;
- Transferring Property at Death and arrangements to help your beneficiaries manage inheritances; and
- Reducing or Eliminating Gift and Estate Taxes which must be paid soon after death.

Lifetime Planning

Retirement and Income Tax Planning. Everyone can benefit from income tax savings and proper retirement planning. Options may include deferring or advancing income, contributing to pension and retirement funds, budgeting a long-term savings plan, and reviewing investments, insurance, and retirement accounts periodically. A "team" of professional advisors might include your accountant, stockbroker, financial planner, personal banker, insurance agent(s), pension advisor, and estate planning attorney.

Planning for Disability. Physical or mental disability from injury, illness, or disease can rarely be predicted. Advance arrangements for disability are an essential part of any estate plan. If advance plans aren't made, the probate court may require a "conservatorship" for you. Although conservatorships are appropriate for some people, conservatorships may be expensive and are generally not the best option. Some alternatives include revocable and irrevocable trusts, "special needs" trusts, durable powers of attorney, and living wills or medical care powers of attorney. Trusts and powers of attorney permit someone else to make decisions for you concerning property, health care, life support, and other medical needs without involving the probate court.

Asset and Risk Planning. Protecting assets and income from certain creditors may be important for some people, especially professionals and business owners. Planning strategies include certain corporations, partnerships, trusts, and limited liability

companies. Any of these strategies must be implemented before you are aware of threatened creditor actions.

Transferring Property at Death

Selecting the Best Method and Documents. Property is often transferred at death through a "probate" proceeding. Probate may be needed for those who die "intestate" (without a will), and for those who have a will. Probate starts when the will and certain forms are filed with the probate court where the decedent lived, and where the decedent's property is located. The time and expense necessary for probate to be completed depend on the complexity of the administration, the types of property and expenses administered, and the state of the decedent's residence.

Other techniques for transferring property at death include joint tenancy, beneficiary designations, and terms for distribution from certain trusts. Each of these techniques has different benefits and costs, depending upon the type of property transferred and your own unique circumstances. A combination of these planning techniques is usually best. Only a qualified estate planning attorney can advise you and prepare the legal documents necessary for your estate plan, given the myriad of state and federal property and tax laws that apply at death.

Protecting your Beneficiaries. Proper estate plans also consider arrangements for those who depend on you, and beneficiaries with special needs. Such arrangements include designation of guardians, and may control the timing and amount of property distributed. You may also protect your beneficiaries' inheritances from lawsuits, claims of creditors, or spouses in the event of divorce. Applicable restrictions may be rigid or flexible with proper advice and planning. However, attempts to control distributions may not be enforceable unless properly described in precise legal terms.

Gift and Estate Taxes

Planning for death taxes may be an important part of your plan. Many people are not aware that federal and state death taxes, sometimes called "estate taxes" and "inheritance taxes," apply to the value of all property owned at death. Tax laws change frequently, and federal rates have ranged between 35% and 55%. Recent federal tax law changes have introduced extraordinary uncertainty. Proper planning can greatly increase the amount of property going to your heirs, rather than to federal and state tax agencies. Common strategies include use of the maximum exemption against estate taxes and deductions for property given to spouses. Other strategies include gifts or transfers to irrevocable trusts and heirs that qualify for annual exclusions and exemptions from gift tax. Advanced planning techniques may also take advantage of valuation discounts, deductions for charitable gifts, and gifts intended to skip estate tax through successive generations. Because tax rules are very complex, this planning requires the advice and guidance of a qualified estate-planning attorney.

The information contained herein is not intended as legal, tax or investment advice. For such advice, please consult an attorney, tax professional or investment professional.

