

# Estate Planning Foundation



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# What is Estate Planning?

It is setting in motion a plan to provide for:

- Orderly Management and
- Disposition of Property
- During life,
- When you are incapacitated, and
- At death

# Goals:

- Assure the right people receive your property at the right time with proper management
- Avoid Taxes
- Retain Control and Benefit
  - Minimize
    - Expenses
    - Inconvenience
    - Publicity

# RESULTS OF SIMPLE WILL

- First Spouse wastes Unified Credit (\$2,000,000-\$3,500,000 is unnecessarily taxed)
- Surviving Spouse has larger taxable estate
- Creditors and Predators of surviving spouse have full access

# Last Will and Testament

- Husband > Probate > Wife
- What is Probate?
- Court supervised proceeding that oversees distribution of property at death

# Disadvantages to Probate

Time  
consuming

Public

Harassing  
to survivors

Expensive

# Avoid Probated: Living Trust

- What is a Trust?
  - Written set of instructions
- Why is it called “Living”
  - Effective during life, incapacitation, & death
  - Living instrument fully revocable & amendable

# What Property Goes Into Living Trust?

- All property
- Two exceptions
  - Automobiles
  - Qualified Plan Assets

# Two Common Questions

- Who controls the assets in the Living Trust?
  - Trustee
- Who benefits from the assets in the Living Trust?
  - Beneficiary

# What Happens at Death?

- Property passes without probate
- Saves time, expense, & inconvenience
- Reduced Estate Taxes

# 4 Advantages of a Trust

1. Privacy
2. Less Vulnerable to Attack Than a Will
3. Uninterrupted Management at Incapacity or Death
4. Even though the surviving spouse benefits, estate taxes are reduced

# Protecting Inheritance from In-Laws

## The Story of Jeff and Mary

Estate of \$1,600,000

Want a Very Simple Arrangement:

- Everything to the survivor
- Balance to the Kids and Grandkids  
when they both pass

# In Laws and Outlaws

- When Both died, the assets passed to the four Kids
- Jonathan received  $\frac{1}{4}$  and HALF of that went to his ex-wife when they divorced



# In laws and Out Laws

- One Fourth went to Beth and when she passed she left it to Carl, her husband
- When Carl passed he left everything to his new wife, Kendall, and nothing went to Beth's children (the grandkids)



# In Laws and Out Laws

- One Fourth went to Darin, a well respected physician
- Darin was sued and put everything at risk to his creditors



# In Laws and Out Laws

- One Fourth went to son Eric, a nice kid but not very good with money
- He had a drinking problem and went through money fast
- His inheritance was gone in a flash



# In laws and Out Laws

These are common problems:

- Divorce
- Death
- Law suits
- Easy Spending

# Documents and Players

- |                     |                     |
|---------------------|---------------------|
| ■ Living Trust      | Trustee – Successor |
| ■ Pourover Will     | Executor – Guardian |
| ■ Power of Attorney | Appointee           |
| ■ Health Care PoA   | Appointee           |
| ■ Living Will       | Desire to Die       |

One of the major causes of estate erosion is: Taxes

“What is the difference between the IRS and a Taxidermist?”

“The Taxidermist leaves the hide.”

# What is YOUR Taxable Estate?

- What is Fair Market Value?

- Assets to Consider

- Real Estate

- Business

- Investments

- Retirement

- Life Insurance

- Personal Property

# What is the Value?

## Real Estate

- Not tax value
- What a willing buyer would pay a willing seller both of which are reasonably motivated to buy or sell.
- Comparable sales
- Best use rule

## Business

- No consideration giving for the death of the principal.
- Historical review of financials.
- Hard asset approach
- Income approach
- Valuation NOT in anticipation of death

# Valuations

- When valuations are done without the anticipation of death and by using sound valuation theory, a value is established for IRS purposes.
- Valuations are also a great management tool
  - Review problem areas such as cash flow and debt
  - Evaluate tax savings for businesses and business owners

# How Much Tax is DUE NOW?

NOW

Taxable Estate:

(Unified Credit):

Adjusted Taxable Estate:

Estate Tax Rate:

TAXES DUE:

# Reducing the Taxable Estate

- Use Both Unified Credits- CST
- Gifting to Heirs
- Remove Current Life Insurance
- Family Limited Partnership
  - Lock in values and retain control
- Life Insurance- Second to Die

# Unified Credit

- \$2,500,000 Unified Credit

“BUS TOKEN”

- Exemption Increases then....

2007	\$2,000,000
2008	\$2,000,000
2009	\$3,500,000
2010	UNLIMITED
2011	Back to \$1,000,000

# Credit Shelter Trust

- For the Surviving Spouse
  - Mandatory Income
  - Right to 5% or \$5,000
  - Discretionary Distributions of Principal

# Flow of Property

**Husband's Assets**

**Wife's Assets**

**Credit Shelter  
Trust**

**ASSETS – TAXES = HEIRS**

# Estate Taxes

- Where will the monies come from?
- How will your heirs come up with the money 9 months after death?
- What is the best way to pay the tax?
  - Borrow, estate sales, or insurance?

# How Much Tax is DUE NOW?

## NOW

Taxable Estate:

(Unified Credit):

Adjusted TE:

Estate Tax Rate:

TAXES DUE:

## WITH PLANNING

Taxable Estate:

(Unified Credit):

Adjusted TE:

Estate Tax Rate:

TAXES DUE:

# Life Insurance

	<u>Single</u>	<u>Second to Die</u>
Purpose:	Spousal	Estate Taxes
Type:	Term/Perm	Permanent
Ownership:	Self/Trust	Trust
Beneficiary:	Spouse	Trust
Death Benefit:	\$\$\$\$\$	\$\$\$\$\$
Taxability:	?	Free of Tax

# Life Insurance Trust

Trust is Owner and Beneficiary  
You pay the Premiums



Funds to Heirs  
WITHOUT ESTATE  
TAX

# Summary

- Living Trusts avoid probate
  - Time, Expense, Publicity and burden
- Get the assets to the right people at the right time
- Estate Taxes and Income/Corporate Taxes
- Life Insurance Trusts

Thank You



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