

Estate Planning 101

Presented by:



Agenda

- Key Documents/Concepts
- Decisions to Make
- How Property Passes at Death
- Intestate Distribution
- Spousal Rights
- Transfer Taxes
- Standard Tax Planning Strategies



Key Documents/Concepts

- Will/Codicil
- Trust
- Powers of Attorney for financial matters (general/limited/durable/springing)
- Living Wills/Advance Directives/Health Care Power of Attorney
- Designation of Beneficiary Forms (Retirement Benefits, Life Insurance, IRAs, Annuities)



Decisions to Make



- Choose "fiduciaries"
- Determine who gets what
- Determine ages for children's distribution(s)
- Decide on trust or outright gift for spouse
- Decide on "Plan B" ("A Bomb Clause")

Fiduciaries




- Executor
- Trustee
- Guardian
- Financial Power of Attorney
- Health Care Power of Attorney / Living Will Agent

Who Gets What?




- Benefits to charities?
- Specific "tangible personal property" gifts
- Specific cash gifts
- Split of assets between spouse, children, other family members
- Tax planning overlay
- Implementation for non-probate assets

Ages for Children's Distribution(s)



- Default under state law is distribution at age 18
- Classic pattern is 1/3 at 25, 30 and 35
- Before age 35, Trustee decides whether to make distributions for child's health, education, maintenance and support or other beneficial purposes
- Many times, a lifetime trust is advisable

Spousal Gifts



- Gift property outright or in trust?
- For estate tax marital deduction, trust must give all income to spouse
- "Second look" limited power of appointment
- Considerations:
 - potential remarriage and additional children
 - creditor protection
 - tax savings in surviving spouse's estate
 - protection of funds for children/other contingent beneficiaries

How Property Passes at Death



- Probate vs. Non-probate
- Joint tenancy vs. tenants-in-common
- Totten Trusts
- "Payable on Death"/"Transfer on Death" Titling
- Retirement Benefits, Life Insurance, IRAs, Annuities

Spousal Rights



- State laws give spouses rights to between 1/3 to 1/2 of assets subject to certain adjustments (called the "elective share")
- Federal law give spouses rights to between 1/2 and 100% of qualified retirement benefits

Transfer Taxes



- Federal gift & estate tax
 - \$5.49 Million Exemption (Indexed for inflation) (\$5.6 M in 2018)
 - "Portability" concept
 - \$14,000 per year annual exclusion from gift tax (\$15,000 in 2018)
 - Gift tax exclusion for direct payment of education/medical expenses
 - 40% flat rate

Transfer Taxes



- Pennsylvania Inheritance Tax
 - 4.5% for lineal descendants
 - 12% & 15% rate for other beneficiaries
- Deductions/Exemptions for gifts to spouses & charities
- Generation Skipping Transfer Tax

Standard Tax Planning Strategies



- Bypass Trust/ Credit Shelter Trust
- Life Insurance Trust
- Annual Exclusion gifting
- Gifts/Sales of Assets to "freeze" values for transfer tax purposes
- IRA/Qualified Plan "Stretch outs"
- Spousal Lifetime Access Trusts
- Capital gain "stepped up basis" at death

Further Information

Please contact the Philadelphia Estate Planning Council

<http://www.philaepc.org/>