

Basic Estate Planning

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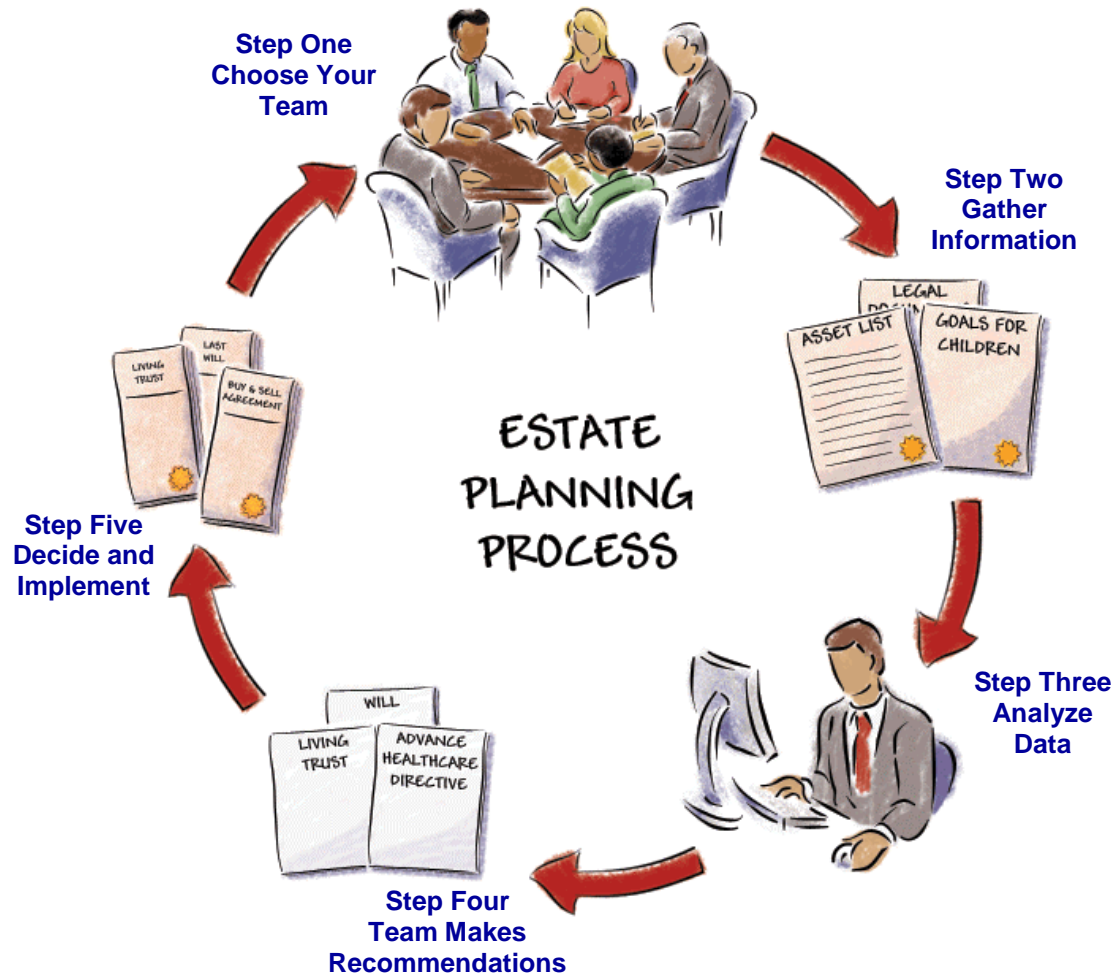
Important Notice

This report is intended to serve as a basis for further discussion with your professional advisors. Although great effort has been taken to provide accurate numbers and explanations, the information in this report should not be relied upon for preparing tax returns or making investment decisions.

Assumed rates of return are not in any way to be taken as guaranteed projections of actual returns from any recommended investment opportunity. The actual application of some of these concepts may be the practice of law and is the proper responsibility of your attorney.

Basic Steps in the Estate Planning Process

There are several basic steps to take in planning your estate. A typical program would be as follows.



The Basic Steps

1. **Choose your team:** Choose, as needed, your attorney, tax professional, insurance professional, trust officer, planned-giving specialist or financial advisor.
2. **Gather information:** A completed fact finder serves to list your goals and objectives, shows names, ages, assets and liabilities, desired heirs; goals and objectives
3. **Analyze data:** Pretend death occurred yesterday. What happens to your estate, your business, and your family? What if you die ten years from now? Team analyzes data to provide you the results.
4. **Team makes recommendations:** Review the suggestions made by your team to overcome current plan shortcomings.
5. **Decide and implement:** Select the plan that best fits your needs and goals. Sign essential documents (e.g. wills and trusts), purchase needed insurance, and change investments as necessary.
6. **Periodic review:** Starting the cycle over. Because the world (and your estate) is constantly changing, many advisors recommend an annual planning review.

Choosing an Attorney

Choosing an attorney is a key part of your personal financial life. Unfortunately, the process of finding the right individual can be confusing and frustrating. First of all, you need to be able to find someone who is qualified in the area of the law with which you need help. Secondly, you should be comfortable working with that person.

Always remember that your attorney works for you. Your attorney has a professional and ethical duty to put your interests first. The attorney's primary role is to provide advice and guidance; the final decision as to what action should be taken is yours.

How to Find an Attorney

Talk to people you know and ask about their experience. Another good idea is to check with the local bar association because they often have a referral program.

What Criteria Should Be Used?

In simple terms, the goal is to find the best qualified person you can afford.

On your part, you need to know exactly what it is you wish to accomplish. Do you want to set up a trust? Do you need help in settling an estate? Do you have a dispute with the IRS? Are you filing for divorce? Were you injured in an accident? Have you been charged with a crime? Do you need to draft documents and contracts for your business?

No one individual can be proficient in all areas of the law. That's why most attorneys tend to concentrate their efforts in a specific area of expertise, which can facilitate your search.

What Does Being Licensed Mean?

An individual must pass the state bar exam to practice law in a particular state. Each state is different and has its own examination. Therefore, being licensed in one state does not allow an attorney to practice law in another state. Passing a state's bar means that the individual has demonstrated that he or she possesses a minimum level of legal knowledge and is therefore authorized to represent clients before the courts of that state.

An attorney should be willing to furnish you with his or her state bar number. You can then check with the state bar to verify that the attorney is licensed. In some states, you can find out if he or she has been disciplined for past misconduct. Of course, merely being licensed is no assurance that a particular attorney is the best person to handle your case.

Interview the Attorney

Interview your attorney as you would anyone you were considering hiring for a job. Your attorney should be someone you are comfortable with and with whom you can communicate freely. Even more important, your attorney must be someone you can trust.

Choosing an Attorney

Experience

Ask the attorney about his or her legal background and experience. Although many state bar associations do not require an attorney to be experienced or qualified in a specific area of law to practice in that area, some states do recognize highly specialized areas of legal expertise. At a minimum, you should know if your attorney has ever handled the type of matter you need help with.

Next, you should ask about your attorney's non-law background and experience. Most attorneys have had a life outside of law school. The most important experience relating to your matter may not be law or even law related.

Large Firm vs. Individual Practitioner

Since most attorneys tend to specialize in their practice of law, they often find that they can not provide all the services a client may require. Therefore, an attorney generally has two choices: work with a large firm and refer the client to specialists within the firm; or develop a list of outside attorneys to refer clients to for matters they choose not to handle. From the client's point of view, this decision is a matter of personal choice.

- **Large firms:** Advantages: One-stop shopping, generally good in-house expertise and can usually handle a variety of concerns. Disadvantages: May lack understanding of you and your business; sometimes more expensive.
- **Individual Practitioner:** Advantages: More likely to take the time to fully understand you and your needs; generally lower hourly rates. Disadvantages: Limited expertise, may hit time constraints when doing trials. In addition, you may need to work with more than one office to handle all matters.

Meet the Estate Planning Team



Estate planning is a complex field that covers many areas including wills, trusts, insurance, accounting, business continuation, and estate, gift and income taxes. It would be difficult to find one person who is a trained and licensed expert in all of these areas. Most often, the needed skills and knowledge are available only by bringing together an Estate Planning Team. The various members of the team can then work closely to preserve the estate and pass it on to the heirs with the least amount of expense and aggravation.

You Are the Captain of Your Team

Possible Team members may include the following:

- Attorney
- Tax Professional
- Insurance Professional
- Trust Administrator
- Charitable Advisor
- Financial Advisor

Items to Discuss Before Meeting with an Attorney

There are several topics that persons should consider prior to meeting with the attorney who will draft a will or a trust.

Guardians for Minor Children

Who is best able to cope with the raising of your minor children? A brother, sister or a close friend may be a better choice than a grandparent.



Factors to consider would include ages of proposed guardians and their children, ages of your children and number of them still minors, and health and financial situation of all parties. Decide on alternative choices, in the event your first choice is unwilling or unable to serve. If you name a couple as guardians and one of them dies, would you want the surviving coguardian to act as sole guardian? What if they divorce?

Executor of the Estate

If all or part of your estate passes through probate, whom do you want to handle the details of paying your debts and death taxes and distributing the remaining assets to the beneficiaries named in your will?

Living Trust

Is it important to you to avoid probate? Make a list of your assets and approximate values, along with a list of mortgages on any property. Your attorney can give you an estimate of what it will cost your heirs to pass your estate through probate.

The living trust is frequently used to avoid or reduce probate expenses. Ask your attorney to explain the advantages and disadvantages of this type of trust.

Trustee

If you have a trust, either in your will or a separate living trust, you will need to name a trustee to manage investments, pay taxes, make distributions, etc. In the event he or she dies, you will want to provide for one or more successor trustees.

Items to Discuss Before Meeting with an Attorney

A Corporate or Individual Fiduciary

Executors and trustees are referred to as fiduciaries because of the higher standard of care which is required of them in managing the assets of another person. Discuss the facts of your own estate relative to the list of advantages shown below.



- **Advantages of a corporate fiduciary**

- They don't die or become disabled – permanence.
- They are financially accountable for their mistakes.
- They are impartial as to the children. This may prevent the children from becoming bitter towards an individual trustee who happens to be a friend or relative and who doesn't make distributions every time the children ask for something.
- They have investment expertise, tax and accounting abilities, and computer capabilities. Studies show that they save many dollars in the average estate.
- They refuse loans to hard-up friends of the trustee.
- They keep current with the constant changes in the law.

- **Advantages of an individual fiduciary**

- A relative or friend may not charge a fee.
- A relative or friend may have a more personal interest.
- An individual may have special expertise (i.e., running the family business).

Suggestion: Some people prefer the use of an individual and a corporate trustee, as co-trustees, to obtain the advantages of each.

Distributions to Children

If you do not want your assets distributed outright to your children in the event of your demise, they should probably be held in a trust. The trustee will take care of their needs as instructed in the trust. However, at some future time you will probably want to distribute the assets to them.

Many people like to distribute a portion of the estate at several different times; e.g., 1/3 at age 21, 1/3 at age 25 and 1/3 at age 30; or 1/2 at age 30 and 1/2 at age 35, etc. Your preference: ___ at age ___; ___ at age ___; ___ at age ___.



Items to Discuss Before Meeting with an Attorney

Final Heirs

In the event your children pass away prior to inheriting your estate, to whom would you want your estate to pass? For example, one could pass $\frac{1}{2}$ to the husband's side of the family (e.g., parents, brothers, sisters, etc.) and $\frac{1}{2}$ to the wife's side.

Charitable Bequests

Would you be interested in making any charitable bequests, especially if it reduced your income and death taxes?¹

Other Questions

Would you want your children to remain in the present house?

Is it important to reduce your death tax obligation?



¹ Under the Tax Act of 2001, the federal estate tax is gradually phased out until its final repeal in the year 2010. If Congress does not act at that time to repeal it for the years following, it will automatically revert back to the rates in effect during the year 2001, with an exemption for the first \$1,000,000 of assets.

Various Estate Planning Arrangements

A Summary of Benefits

Benefits	No Will	Basic Will	Trust Will	Basic Living Trust	CST ¹ with Living Trust	CST and QTIP with Living Trust
1. Allows you to select:						
a. Beneficiaries of estate,	No	Yes	Yes	Yes	Yes	Yes
b. Executor of will,	No	Yes	Yes	Yes ²	Yes ²	Yes ²
c. Guardians for children, and	No	Yes	Yes	Yes ²	Yes ²	Yes ²
d. Trustees of trust.	No	No	Yes	Yes	Yes	Yes
2. Avoids probate costs.³	No	No	No	Yes	Yes	Yes
3. Provides asset management for children over age 18.	No	No	Yes	Yes	Yes	Yes
4. Protects estate owner from a conservatorship.	No	No	No	Yes	Yes	Yes
5. Designed to save death taxes for couples.	No	No	Maybe ⁴	No	Yes	Yes
6. Allows the first spouse to die to determine the ultimate beneficiaries of the estate in excess of \$2,000,000⁵, while still deferring the death taxes.	No	No	Yes	No	No	Yes

Brief Description of Arrangement

- **No will:** Your estate passes to heirs picked by the legislature.
- **Basic will:** Generally passes everything to your spouse, if living, otherwise to your children when they reach age 18.
- **Trust will:** May contain credit shelter and QTIP trusts or may pass everything to your spouse, if living, otherwise for children.
- **Basic living trust:** Designed to avoid probate and provide asset management. Used for smaller estates and single persons.
- **CST with living trust:** Designed to use the applicable credit amounts of both spouses. Can often save a significant amount of money in death taxes and probate fees.
- **CST and QTIP with living trust:** Same as the CST with living trust, plus it gives the first spouse to die more control over who will eventually receive his or her assets after the surviving spouse dies. Also called a QTIP trust.

¹ CST stands for credit shelter trust. QTIP stands for qualified terminable interest property trust.

² Each living trust is generally accompanied by a "pour over" type of will which picks up assets not put into the trust during lifetime and transfers them after death. Executors/guardians are named in a will.

³ If all of the assets are in the living trust, probate is not necessary. However, there will usually be some expense for legal advice or the transfer of assets not in the trust. Without a trust, probate costs may exceed 5% of the total estate.

⁴ Some trust wills contain credit shelter trusts designed to save death taxes, while others merely manage assets.

⁵ The applicable exclusion amount is the dollar value of assets protected from federal estate tax by an individual's applicable credit amount. It is scheduled to change as follows: \$2,000,000 for 2007-2008; \$3,500,000 for 2009, zero federal estate tax for the year 2010; and \$1,000,000 for 2011 and thereafter (unless permanently repealed or otherwise modified).