

ESTATE PLANNING POLICY

By
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WHAT IS ESTATE PLANNING?

- Estate planning is a process designed to help you manage and preserve your assets while you are alive, and to conserve and control their distribution after your death according to your goals and objectives.

Determining Factors for Estate Planning Needs

- Age
- Health
- Wealth
- Lifestyle
- Life stage
- Goals
- Many other factors

WILLS—The Cornerstone of Your Estate Plan

- Definition- A **will** is a legal document that designates how you want your money and property (your estate) to be distributed after your death. It also specifies your wishes regarding funeral and burial arrangements, and, if you have children who are minors, it states whom you request the court to appoint as their guardian.

Other Terms to Know

- **Testator**- the person who has created the will
- **Beneficiary**- person or organization designated to receive some or all of your assets upon your death.
- **Executor**- the person appointed in your will to settle your estate
- **Probate**- court procedure by which assets pass from a deceased person to the proper beneficiaries.

The Importance of Having a Will

- How do I know if I need a will?
 - If you want to decide who should receive your assets upon your death
 - If you want to name a person who will be responsible for the care of your young child or children
 - If you want to decide who will take care of your taxes, debts, and financial affairs when you die

Continued...

- What happens if I don't have a will?
 - The state you live in has something called intestate succession rules
 - Intestate rules determine who receives the assets held in your name when you die
 - 1ST – SPOUSE AND CHILDREN
 - 2ND – GRANDCHILDREN
 - 3RD – PARENTS, SIBLINGS, NIECES, NEPHEWS, AND COUSINS
 - 4TH – THE STATE

GETTING A WILL

- How do I make a will?
 - The best way would be to have an attorney draw up a will for you
 - You can write it yourself, but be careful to fulfill certain requirements
 - Can buy will forms or computer software that will help you write a will
 - Many states have a statutory will form that the state has approved for use (Best choice if buying a form)

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- How much does a will cost?
 - If a lawyer draws up your will, it could cost between \$100 and \$3000, depending how complex the will is
 - Software costs around \$80
 - Less than \$10 to buy a will form
- Does not need to be notarized
- Witnesses must be present to verify that you were of sound mind (2 to 3 witnesses depending on the state)

OTHER THINGS TO CONSIDER

- Where do I keep my will?
 - Keep it in a place that you feel is safe
- Changing your will
 - One can change their will at any time, for any reason
- Can anybody contest my will?
 - Relatives and others who think they are entitled to a part of your estate

TRUSTS

- What is a trust?

A trust is a written agreement that sets forth who will manage the assets placed in it during your lifetime, in the event of your incapacity, and upon your death. It allows you to transfer the legal title of your assets to a trustee— and is often a more cost-effective alternative to a will.

TERMS TO KNOW

- Trustor- the person who creates a trust and owns the property that has been put into the trust—namely, you.
- Trustee- person or groups of person who controls the assets in the trust
- Successor trustee- person or entity who will succeed the original trustee can no longer function in the capacity of the trustee

Revocable Living Trust

- Most popular kind of trust
- Definition- “Revocable” because you can change it at any time; “Living” because you create and fund it while your alive; and a “trust” because you can entrust it with the title to your property.

What is the difference between a revocable living trust and a will?

- You transfer title to your assets from your name as an individual to your name as trustee of your trust
- Your successor trustee has the immediate legal authority to sign over the assets held in the trust directly to the people you want to have them
- When you die, your successor trustee has immediate legal authority to sign over the assets held in the trust directly to the people you want to have them

Continued...

- Your beneficiaries don't need to go to probate court in order to get your assets transferred to them, there won't be probate fees, or delays in transfers (except for the payment of death taxes and creditors)
- Remember, a living revocable trust can avoid the complicated and expensive process of going to probate court

How does a revocable trust work?

- The successor trustee will take your death certificate and the trust documents to the bank, the brokerage house, the insurance co., and any other institutions with assets held by the trust—and these institutions will change the title to the successor trustee's name
- The trustee then will sign the assets over to whomever there are designated to go by the trust—or in a new trust for a minor

DO I STILL NEED A WILL?

- **YES**
- Why? One must have what is called a pour-over will, or backup will. That way any assets not in your trust are “poured over” by the will. It covers anything you might have left out of your trust. Also, it lists guardianship if necessary, and wishes for your memorial service.

WHO NEEDS A TRUST?

- The need of a living trust depends on the state in which you live, the size of your probate estate, and which assets you are leaving to your beneficiaries.
- Living trusts can be more valuable to those with less because you can avoid probate fees with the trust

Setting up a Revocable Living Trust

- The best way is to have an attorney draw up the trust document, but you can do it yourself.
- When the document has been created and signed, one needs to transfer the ownership of almost all your assets into the name of the trust to avoid probate and to allow a successor trustee to act on your behalf
- Last, you must fund the trust after it is created for the trust to take effect

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- Make sure to review your trust if there are any major changes in your circumstances or relationships.
- As long as you have a revocable trust you can make changes whenever.
- Your trust will have a provision that states how or when your trust can be terminated.

FUNDING THE TRUST

- Funding a trust means transferring ownership of certain assets into the trust while you are still alive.
 - EX. changing title to an asset like a bank account, or preparing a new deed and recording it
 - You must fund the account or it will be nothing more than a document stating who gets what

Other Important Things to Consider

- Assets that should go in your trust—real estate, bank accounts, stocks, bonds, investment accounts, partnership interests, & credit union accounts
- Put everything in the trust except for life insurance, retirement plans, and stock option incentives

Estate & Gift Tax

Taxes

- The U.S. Constitution gives the government the authority to levy taxes.
- The 16th Amendment to the Constitution gave birth to the modern Income Tax.
- Taxing a person's estate upon their death is one of the oldest forms of taxation.

Gift Tax

- The Gift Tax is a tax on your right to gift money.
 - Its purpose is to prevent complete tax avoidance. It applies to transfers made without receiving any value in return
 - Gifts up to \$12,000 can be given to any person each year without paying a gift tax
 - Currently, there is a \$1 million total lifetime gift tax exemption. (Any individual can gift up to \$1 million in their life without paying a gift tax.)

Estate Tax

- Taxes your right to transfer property upon your death.
- “It consists of everything you own or have certain interest in at the date of death.”
- Taxable property includes:
 - Cash & Securities
 - Real Estate
 - Insurance & Annuities
 - Business Interests and other assets

Estate Tax

- The total of those items equals your “Gross Estate”
- Deductions may include:
 - Mortgages & other debts
 - Estate Administration expenses
 - Property that passes to your spouse or qualified charities

Changes To Estate Tax

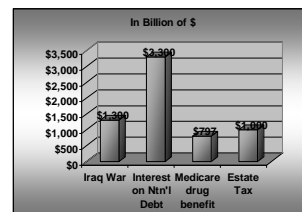
- The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)
 - Provided 10 years of increasing exemptions from estate taxes.
 - This year, estates under \$2 million are exempt from the estate tax.
 - In 2009 that amount will increase to \$3.5 million.
 - The estate tax is currently set to be repealed in 2010.

Who does the Estate Tax affect?

- In 2006, it is estimated that only 0.27% of all estates in the U.S. will pay taxes.
 - That means 99.73% of Americans will pay \$0 in any estate taxes.
 - Agnes Gund, former President of New York’s Museum of Modern Art says, “It’s a fair tax on those who can best afford it, it contributes greatly to our nation’s treasury, and it encourages Americans to give to charitable institutions.”

How much is the Estate Tax?

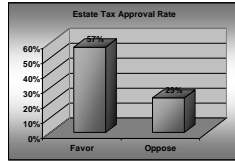
- It is estimated that in the first 10 years of a full repeal of the estate tax, it will cost the government \$1 trillion in tax income. (ResponsibleWealth.org)



Public Opinion of Estate Taxes

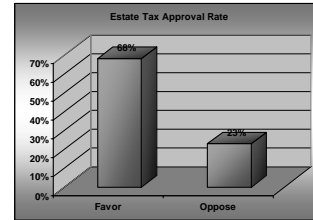
A telephone survey of 910 registered voters by Penn, Schoen & Berland Associates, Inc. found:

- 57% favor keeping Estate Tax
- 23% favor repealing



Public Opinion of Estate Taxes (cont.)

When the respondents learned more about the Estate Tax, the number that favor keeping the tax increased to 68%



Some Conclusions

- Some Conclusions from the Phone Poll
 - American voters favor keeping the Estate Tax
 - Voters place the Estate Tax at the bottom of the list of taxes to be cut
 - Voters think that one of the two best ways to reduce the budget deficit is to keep the Estate Tax
 - When people have more information, they are more inclined to support the Estate Tax

Estate Tax – The Fight

Support for Estate Tax:

- Warren E. Buffet considers repealing the Estate Tax "would be a terrible mistake," the equivalent of "choosing the 2020 Olympic team by picking the eldest sons of the gold-medal winners in the 2000 Olympics." "
 - He adds, "We have come closer to a true meritocracy than anywhere else around the world... Without the estate tax, you in effect will have an aristocracy of wealth, which means you pass down the ability to command the resources of the nation based on heredity rather than merit."

Estate Tax – The Fight (cont.)

- Others who oppose repealing the Estate Tax
 - George Soros, investor and philanthropist
 - David Rockefeller Jr., former chairman of Rockefeller & Company
 - Steven C. Rockefeller, chairman of the Rockefeller Brothers Foundation
 - Agnes Gund, a philanthropist whose family owns stakes in many companies
 - Ben Cohen, a founder of Ben & Jerry's

Estate Tax – The Fight (cont.)

Opposition of Estate Tax:

- President Bush wants to repeal the "death tax" and the gift tax as part of a plan to cut taxes by \$1.6 trillion in the next ten years.
 - Pres. Bush says that the estate and gift taxes discourage people from saving and investing.
 - He believes repealing these taxes "would increase economic growth by rewarding those who build great fortunes and creating incentives for them to invest more."

How the Estate Tax Affects People

Who benefits from the Estate Tax?

- Low and moderate income families who benefit from a large tax base that supports government programming.
- Poor and Elderly who depend on government programs for healthcare.
- Public Education

Who is harmed by the Estate Tax?

- The wealthy, those whose estates are valued at \$2 million or above.

Conclusion

- The vast majority of Americans will not pay any Estate Tax (99.73%)
- Repealing the Estate Tax would cost the Government \$1 trillion in the first ten years after repeal.
- Many wealthy Americans oppose repealing the tax
- Typically, the more people know, the more likely they are to support the Estate Tax