

Trusts and Estate Planning

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Why Is Estate Planning Important?

- Helps you provide for your loved ones
- Avoids unnecessary hassles
- May help you save money on taxes



Simple Estate Planning Tools

- Joint ownership / rights of survivorship
- Payable on death accounts
- Beneficiary designations on life insurance and retirement accounts
- When these don't work, assets fall back into your estate



Dying Without a Will

Massachusetts Rules

- If you have a spouse but no kids, spouse gets first \$200,000 plus half of remaining assets; rest goes to parents or siblings
- If you have a spouse and kids, spouse gets half and kids get half
- If you have kids but no spouse, kids get everything
- If you have no spouse or kids, parents or siblings get all of your assets



Why Do You Need a Will?

- To choose who you want to receive your property
- To name a guardian to care for your minor children
- To do advanced planning for kids and other beneficiaries, such as setting up trusts



Other Important Documents

- Financial durable power of attorney
- Medical durable power of attorney
- Advance directive / “living will”
- List of tangible property



What Wills Can't Do

- Manage your assets during your lifetime
- Avoid probate (except for small estates)
- Remain private – wills are public documents



Benefits of Trusts

- Help manage assets both during life and after death
- Allow someone to step in quickly to take over without court appointment
- Privacy



Types of Trusts

- Living trusts
- Testamentary trusts
- Revocable versus Irrevocable



Living Trusts

- Also known as revocable or inter vivos trusts
- Usually let you manage your own finances as long as you are able
- You name someone to take over after death or if incapacitated
- Relatively easy to change provisions during lifetime



Picking a Trustee

- Main choice: family member or professional?
- Family members less costly but can create emotional conflicts
- Banks and other institutions can act as impartial managers, but they cost more
- Your wishes are paramount



Wills vs. Trusts

- In some cases, lawyers charge less to write a will
- But trusts can save legal expenses after death
- Usually, you can achieve most goals with either one



Specific Types of Trusts

- Marital trusts
- Bypass or credit shelter trusts
- Charitable trusts
- Life insurance trusts
- Personal residence trusts
- Special needs trusts



Advanced Estate Planning

- No federal estate tax on estates up to \$2 million in 2007-08, \$3.5 million in 2009
- Massachusetts estate tax applies on estates over \$1 million
- Top federal rate is 45%; top Massachusetts rate is 16%



Important Estate Planning Concepts

- In general, you can leave as much as you want to your spouse without estate tax
- Charitable gifts also reduce your taxable estate
- You can't avoid the estate tax simply by giving everything to your heirs right before you die – gift tax and estate tax are integrated



How Planning Saves Taxes

No Planning

- Assume a couple has \$4 million
- When husband dies, leaves everything to wife – no estate tax
- When wife dies, leaves everything to kids – federal estate tax on \$4 million is \$900,000
- Tax was unnecessary



How Planning Saves Taxes

With Planning

- Same couple with \$4 million in assets
- Husband dies, leaves \$2 million to wife and \$2 million to bypass trust – no estate tax
- Wife dies, all remaining assets go to kids
- Bypass trust isn't included in wife's estate, so no estate tax
- \$900,000 savings through planning



Bypass Trusts

- Set up to take advantage of both \$2 million exemptions
- Money is still available to spouse if needed
- Kids eventually receive whatever's left



Marital Trusts

- Ideal for situations involving kids of former marriage
- Allow you to take advantage of estate tax deduction for gifts to spouse
- But you have some control over how spouse withdraws trust assets
- Kids can end up inheriting more without tax



Life Insurance Trusts

- In general, if you own a policy yourself, its proceeds are included in your estate
- That can create an estate tax problem
- Transferring ownership to a trust can take the policy out of your estate



Other Advanced Topics

- Family limited partnerships
- Charitable trusts and other strategies involving gifts to charity
- Annual exclusion ("Crummey") trusts



Getting Help

- Personal references are the best source
- Cheaper isn't always better
- Beware of free seminars (but not this one!)

