



Estate Planning for Everyone



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Why Estate Planning Matters

- Ensuring your wishes are carried out
- Consideration for loved ones you leave behind
- Planning around potential estate taxes

This presentation provides general estate planning education and is not a substitute for legal advice obtained from a qualified estate planning attorney



Agenda

1. Incapacity – your health, your assets
2. Upon your death – beneficiaries, wills, trusts
3. Estate taxes
4. Gifting during your lifetime
5. Do it yourself vs. an attorney
6. Organizing your records
7. Resources

If You Become Incapacitated

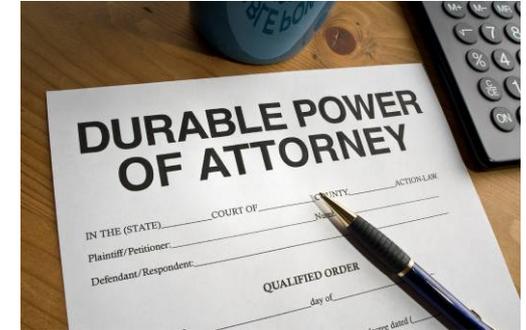
- **Power of Attorney** – to make legal, financial decisions on your behalf. Avoid a court conservatorship.
- **Revocable Living Trust** – to help manage your assets
- **Medical Power of Attorney** – to make health-care decisions for you
- **Living Will** – to express your end-of-life wishes
- **Physician Orders for Life-Sustaining Treatment (Polst)** – to spell out specific treatment instructions

“Advanced Directives”

Even more important for unmarried couples

Durable Power of Attorney

- Send copy to each financial company
 - may require their own forms
- Spend time in more than one state?
Separate form for each
- Limit potential for abuse
 - ✧ Assign different powers to different individuals
 - ✧ Require multiple individuals to authorize



Renew regularly – to keep updated and limit pushback from financial companies

Revocable Living Trusts

- Incapacity
 - ✧ Co-trustee for brief period
 - ✧ Successor trustee for long-term
- May serve other purposes – including distribution of assets upon your death



Evaluate the need for a Trust with an attorney



Medical Directives

Health Care POA, Living Will, Polst

- Only apply when you are ***not able*** to act
- Why have? Help
 - ✧ Ensure your wishes are carried out
 - ✧ Prevent legal battles
 - ✧ Loved ones cope

- Periodically review and update. Destroy old copies.
- Give copies to doctor and loved ones.

Upon Your Death

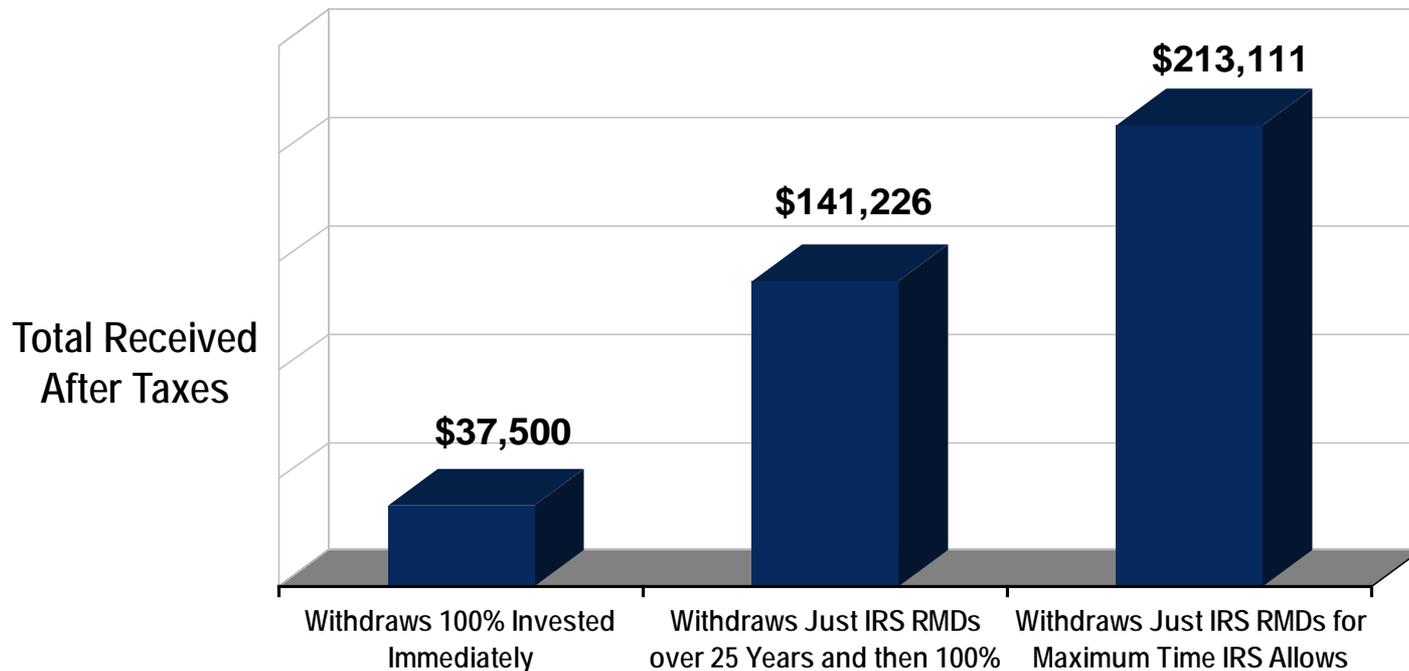
How your assets pass to your heirs

Generally
override
your will

- Operation of law
 - ✧ Titling of non-retirement assets
 - ✧ Community property
- Contract – beneficiary designations
 - ✧ Retirement plans
 - ✧ Annuities
 - ✧ Life insurance
 - ✧ Trusts
 - ✧ Non-retirement assets – TOD/POD
- Will
 - ✧ Probate assets

Why Designate Beneficiaries?

- Avoid potential costs, delays of probate
- Potential tax benefits – beneficiaries can take withdrawals over their life expectancy



Assumes a 40-year old beneficiary inherits \$50,000, annual returns of 7% per year and that all withdrawals are made at beginning of year, are federally taxed at 25%, and are spent and not reinvested.

Tips for Designating

- **Contingent beneficiaries** – name also, in case primary beneficiary dies before or same time as you
- **Young children** – you could designate a custodian or trust
- **Controlling distributions** – how/when beneficiaries receive your assets. Could designate a trust.
- **Giving to a charity** – consider for retirement accounts other than Roth assets

Review options
with attorney

Beneficiary Reminders

- Take precedence over
 - ✧ Your will
 - ✧ A divorce agreement
- Review and update periodically, and upon
 - ✧ Marriage
 - ✧ Divorce
 - ✧ Birth of child
- Tell beneficiaries about retirement accounts, insurance policies





A Will

Why you might need

- Ensure your wishes are carried out
- Children – to appoint a guardian
- Unmarried couples – to provide for your partner

Without one, the state decides



A Will – But Do I Really Need One?

If you have few assets and no kids? Consider...

- Your personal possessions, collectibles, etc. – who will receive?
- If you are married, in some states assets split between your spouse and parents – your wishes?
- Your pet – who will care for?
 - ✧ More information – www.hsus.org/petsinwills

A Will – Your Executor

- Their role: a fiduciary responsibility to
 - ✧ Value your assets
 - ✧ Pay all taxes, debts and expenses
 - ✧ Distribute what's left
- Selecting
 - ✧ Someone you trust – who is detail-oriented
 - ✧ Alternate executor – if necessary
 - ✧ Individual and a professional as co-executors?

Whomever you choose, ask – do they want the job?



Trusts

- Help control how your assets are distributed
- Avoid potential costs, delays of probate
- May help protect assets upon your death

Review with an attorney. If establish, ask about

- Funding the trust (non-retirement assets only)
- Designating the trust as a beneficiary (pros/cons)



Spousal Considerations

If currently or previous married, consider...

- Your will
 - ✧ Most states guarantee spouses a certain percentage. A pre- or postnuptial agreement might counteract.
- Your beneficiary designations
 - ✧ In some employer retirement plans a spouse is default beneficiary unless they waive rights
- Your ex-spouse
 - ✧ A divorce agreement can be overridden by a beneficiary form listing an ex-spouse

Blended Families

Supporting children *and* a “new” spouse

Review
with
attorney

- Trusts that provide annual income for spouse’s life but preserve remaining assets for children
- Life insurance

Communicate your plan with your loved ones



Funeral Planning

- Can be expensive – compare prices, services
- Prepay? Be cautious – understand the terms
- Communicate plans with family members

More information: www.ftc.gov/funerals

Estate Taxes

After 2012?
TBD!

Federal (2011-12)

- \$5 million exemption, 35% rate
- Unified estate, gift, generation-skipping taxes – easier for wealthy to make gifts during their lifetime
- Spouse portability – any exemption not used by first spouse to die passes to surviving spouse*

State – not necessarily the ultra-wealthy

- Several states have estate or inheritance taxes with much lower exemptions than \$5 million

* Portability provision does not apply to the generation-skipping tax exemption, in which assets are given to, for example, grandchildren.

Estate Taxes – Example

Single Person

Dies in 2011 or 2012

- \$6M assets
 - \$0 to charity
 - \$5M exemption
 - 35% tax rate

\$350,000 federal estate taxes

Married Couple

Husband dies in 2011 or 2012

- \$6M assets
 - \$1M to children
 - \$5M to spouse

\$0 federal estate taxes

\$9M exemption for surviving spouse

- * Her \$5M exemption
- * \$4M unused from husband

* If spouse remarries, the unused exemption may be reduced or lost.

Estate Tax Laws – What Now?

Checklist – review with your attorney

- ☑ Does existing plan require updates?
- ☑ Trusts may still make sense
 - ✧ Asset protection – lawsuit, divorce settlement
 - ✧ Children from previous marriage
 - ✧ State estate taxes
- ☑ Life insurance may still make sense
 - ✧ Estate taxes – think ahead to 2013 and beyond
 - ✧ Other needs
- ☑ Ultra-wealthy – GRATs, complex gifting strategies



Gifts

Why gift during your lifetime?

- Enjoy the experience of loved ones receiving
- Charity: potential tax benefits
- Future gains on amounts gifted removed from your taxable estate

First make sure your own retirement needs are covered



Gifting

Gifting strategies

- Annual exemption \$13,000 per person – no taxes, filing
- For college – 529 plans
 - ✧ Tax advantages
 - ✧ www.collegesavings.org | www.savingforcollege.com
- Trusts – if want to control distribution
- Family Partnerships, LLCs – for very wealthy individuals for estate tax purposes



Financial Documents – Do It Yourself?

- Online forms, software – much less expensive than an attorney
- *May* make sense if circumstances are straightforward
- When you almost certainly should go to a lawyer
 - ✧ Wish to disinherit a family member
 - ✧ Special needs child
 - ✧ Assets may be subject to estate taxes
 - ✧ Children from previous marriage
 - ✧ Power of attorney
 - ✧ Homeowner

Organizing Your Records

- ☑ Store at home – secure water/fire-proof location
 - ✧ Funeral arrangements, will
 - ✧ Financial statements, insurance policies
 - ✧ Records of bank safe-deposit box items, online accounts
- ☑ Give to attorney, advisors, doctors, etc. as appropriate
- ☑ Maintain updated list
 - ✧ Don't forget “digital assets” – social network, photo, video, music and email sites
- ☑ Ensure key documents are accessible – don't put will, funeral arrangements in bank safe-deposit box

ICMA-RC's Personal Record Keeper –
www.icmarc.org/plansmart

Resources

- **General resources**
 - ✧ www.aarp.org/estateplanning
 - ✧ www.fpanet.org/lifegoals/planningmyestate
- **Estate planning attorneys**
 - ✧ www.aaepa.com
- **Medical directives**
 - ✧ “Five Wishes” document – www.agingwithdignity.org
 - ✧ “Consumer’s Tool Kit for Health Care Advance Planning” – www.americanbar.org
 - ✧ www.caringinfo.org
- **Elder care**
 - ✧ www.eldercare.gov
 - ✧ www.americanbar.org/aging

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