

Estate Planning 101

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CHANG | law group PC

Why do Estate Planning?

Determine what you want to do with your assets during life and after death

- Provide for self, spouse, children
- Provide for family members with special needs
- Benefit charities

Minimize taxes so you can control more of your assets

Avoid family disputes

What Happens If You Don't Do Estate Planning?

Possible chaos during period of incapacity.

- Spouse and children fighting or trying to figure out what you want.
- Who will be guardian in event of both parents' disability or death?

After death, assets are distributed based on:

Beneficiary designations

Intestate succession (default state law): WA law

- Community property to spouse
- Separate property: half to spouse, half to children
- If no spouse, all to parents or alternatively to siblings.

Family Centered vs. Tax Plan Centered

Factors to consider:

- Long Term vs. Short-Term Investment Assets
- Likelihood of Younger Generation to Take Over Family Business
- Fluctuation in Values
- Health Conditions
- Family Relationships (Husband/Wife; Children; In-Laws)

Assets

High growth? High Risk?

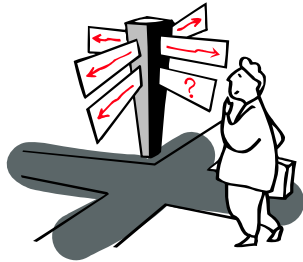
- Family Business
 - Likelihood of Merger or Buyout by Others?
- Stocks—
 - Start-Up/IPO Stocks vs. Mutual Funds?
- Real Estate
 - Significant discounts through family investment entities
 - Capital gain distribution planning

Foreign Assets?

Gift/Estate Taxes

Where are we?

- Progressively Increasing Exemption through the next seven years
 - \$1,000,000 Lifetime Gift Exemption
 - \$2,000,000 Total Gift & Estate Tax Exemption in 2006-2008; \$3,500,000 in 2009
 - Complete repeal in 2010
 - \$1,000,000 Total Gift & Estate Tax Exemption in 2011



Estate Taxes – A Basic Illustration

Usual pattern of leaving assets to surviving spouse and then to children is costly.

Husband & Wife Total Assets \$4,000,000

Husband → Wife → Kids \$4,000,000
(plus growth after Husband's death and before death of Wife)

\$ 2,000,000 Exempt
\$ 2,000,000 (plus growth of assets) Taxable

Estate Planning with Credit Shelter Trust May Reduce Estate Taxes

Total Assets of the Couple: \$4,000,000

H's assets → Trust

\$2,000,000 Tax Free

(Using Exemption Amount)

Upon the Wife's Death

W's assets → Kids

\$2,000,000 Kids Tax Free

(Sheltered by Exemption Amount)

H's Trust assets → Kids

\$2,000,000 (plus all growth since H's death)

Tax Free

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Separate Property: Separate property: half to spouse, half to children. If no spouse, all to children.

*If there is no spouse or children, to parents. If parents deceased, to siblings or other heirs by right of representation.

What is a Basic Estate Plan?

1. Will

- Basic document to name beneficiaries to whom you wish to leave assets
- Name guardians for children
- May Include a testamentary trust for children

2. Durable Power of Attorney

Effective when you are unable to make your own decisions.

- Designate agent to carry out financial affairs (i.e. pay bills, sell or buy assets)

3. Directive to Physicians

- Lets you express your wishes regarding life support and certain personal restrictions regarding medical care/needs

Revocable Living Trust

- Living Trusts may be useful in management of assets during life and may minimize the need for probate (i.e., a court procedure to distribute your assets) and guardian of your estate in the event of incapacity
- No tax benefits alone; unless other tax saving trusts (credit shelter and/or marital trusts) are specifically included (the same tax saving devices may be in a Will)
- If there is Real Property in another state, it may be best to place the property in a Living Trust to avoid Probate in more than one state
- Allows a family member or a professional trust company (acting as a trustee or co-trustee) to help manage assets

Elements of Trust

- Name Trustee and Alternate Trustee
- Specify distribution during the life of the Trustor (the person who created the trust)
 - Example: The Trust assets are used for the benefit of the Trustor during his or her life and upon death, all assets to children

Elements of Trust (cont'd)

(if beneficiaries are minors)

- While in school or before a set age
- Distribution at designated ages
 - (e.g. 10% of trust assets @ age 25; 25% @ 30)
 - Final distribution and termination of trust
- Final distribution at designated age
- Special conditions for distribution; discretion for trustee not to distribute.

How Does a Revocable Family Trust (aka Living Trust) Work?

- Assets (i.e. house, stock accounts, bank accounts, etc.) must be in Trust;
- Assets left outside the Trust subject to Probate
 - unless the value of non-trust assets is below the State's applicable minimum
 - *(WA: \$100,000)*
- In most cases, Trustors continue to manage assets as Trustees (the managers of the Trust) until successor trustees (for example, adult children) step in as Trustees upon incompetence or death of Trustors
- All taxes due reported on the Trustors' tax returns
- The Trustors may claim the same deductions and personal residence sale exemptions

Special Issues to Consider for Your Estate Plan

- Special Needs Trust for children or elderly parents with a potential need for public benefits
- Trust to support spouse while benefiting children of prior marriage
- Succession planning for closely held business
- Trust as prenuptial planning
- Charitable gifts
- Life Insurance Trusts

Do I Have Enough Assets to Worry About Estate Taxes?

- Value of house and other property, cars, boats, other vehicles, stocks/bonds and other securities, art or jewelry
- IRA's, retirement benefits, 401(k) plans
- Insurance you own on your life (even though it will pay someone else at your death)
- Are you the beneficiary of a trust, or do you have the power to control the disposition of other assets not owned by you?

Vivien K. Chang

- Ms. Chang's practice focuses primarily on estate planning, probate, and small business law. She has extensive experience working with a wide range of clients from complex and high net-worth individuals, to young families with emphasis on protection of children and anticipated growth of family assets. She assists clients in the set-up of family trusts, credit shelter trusts, family limited partnerships/limited liability companies, foundations, charitable remainder trusts, family business succession planning, community property agreements, wills, powers of attorney, and health care directives. Her probate experience includes working with judicial and non-judicial administration of estates of small to large taxable estates, post-mortem tax planning, tax filings, and funding of testamentary trusts.
- Ms. Chang also practices in the areas of corporate and business law, including incorporation, buy/sell of businesses, and corporate maintenance. Ms. Chang is a frequent speaker for financial institutions and for continuing education courses on the topics of estate planning, business succession, and complex trust set-up and administrations.

Next Step

Review and Complete questionnaires

(Link available on www.changlawgroup.com)

Schedule Consultation by calling 425.605.1234