

# Estate Planning 101

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# Why do Estate Planning?

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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?

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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. If no spouse, all to children.
- *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.

# Family Centered vs. Tax Plan Centered

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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 & Factors which affect planning

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High growth? High Risk?

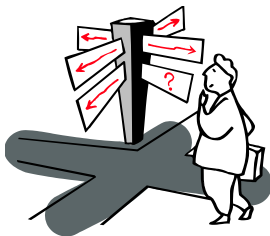
- Family Business
  - Likelihood of Merger or Buyout by Others?
- Stocks
  - Start-Up/IPO Stocks vs. Mutual Funds?
- Real Estate
  - Significant discounts through family investment entities
  - Capital gain distribution planning

Foreign Assets? FBAR filing issues

# Federal Estate Taxes

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- As of 1/1/2022, \$12.06 Million per person for gifts either during lifetime or at death. This exemption is currently set to expire at the end of 2025, at which time the exemption will revert back to \$5.45 Million plus inflation increase.



# State Estate Taxes

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WA Estates above \$2.193 Million (adjusted annually for inflation) are subject to estate taxes of between 10% - 20% based on a progressive calculation formula.

# Estate Taxes – A Basic Illustration

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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)

\$ 2,193,000 Exempt

***\$ 2,193,000 (plus growth of assets) Taxable***



# Estate Planning with Credit Shelter Trust May Reduce Estate Taxes

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**Total Assets of the Couple: \$4,000,000\* (WA Exemption of \$2.193M)**

H's assets  Trust      \$2,193,000 Tax Free  
(Using Exemption Amount)

Upon the Wife's Death  
W's assets  Kids      \$2,193,000 Kids Tax Free  
(Sheltered by Exemption Amount)

H's Trust assets  Kids      \$2,193,000 (plus all growth since H's death)  
Tax Free

# What is a Basic Estate Plan?

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## 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

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- 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
  - Some states (such as California has onerous probate fees/requirements)
- Allows a family member or a professional trust company (acting as a trustee or co-trustee) to help manage assets

# Elements of Trust

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- 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)

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(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?

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- 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

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- 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?

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- 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?