

# WHAT IS ESTATE PLANNING?

Estate planning involves creating a strategy that ensures our property will go to the people we want, in accordance with our wishes when we die. It also makes provisions for personal care and control of property if we become incapacitated.

## PROPERTY DISTRIBUTION OBJECTIVES

1. Minimize expenses, fees and taxes
2. Minimize delays in distribution
3. Maintain privacy
4. Eliminate disputes and disharmony

## OBJECTIVES IN CASE OF INCAPACITY

1. Ensure that someone we trust will handle financial obligations and make financial decisions
2. Ensure that someone we trust has the authority to make healthcare decisions on our behalf

## WHAT HURDLES ARE THERE?

### PROBATE

1. Involves attorney's fees, court costs, personal representative fees, etc. These expenses can total as much as 8-15% or more of the gross estate
2. Can take three months to two years or more to distribute property
3. There is no privacy; probate is public record for anyone to look at
4. Required in every state where real estate is owned

### TAXES

1. Without proper planning, taxes cannot be minimized
2. Estate taxes can be as high as 55% on assets in some estates

### GUARDIANSHIP

1. Court supervision of our property if we are incapacitated but alive
2. Loss of control
3. Court costs, attorney's fees, bonding fees, etc. could be expensive
4. Process is time consuming and cumbersome

## **HOW ARE ASSETS PASSED TO HEIRS?**

BY CONTRACT

BY INTESTATE SUCCESSION

BY WILL

BY TRUST

## **WHAT ARE SOME DISTRIBUTION ALTERNATIVES?**

### **INTESTATE SUCCESSION**

Advantage: This is a no-brainer; you don't do anything

Disadvantages:

1. The State decides who gets your property
2. The State decides who will manage your affairs after death
3. The State decides who will raise minor children in the absence of parents
4. Estate must go through probate
5. Additional reporting, accounting expenses and bonding fees

### **WILL**

Advantages:

1. You decide who gets your property
2. You decide who will manage your affairs after death
3. You decide who will raise your minor children
4. Can save additional reporting, accounting expenses and bonding fees
5. Relatively inexpensive

Disadvantages:

1. Does not affect distribution of jointly owned property
2. Does not minimize estate taxes
3. Relatively simple to contest
4. Does not avoid probate
5. No privacy; becomes public record for anyone to view

## **LIVING TRUST**

Advantages: -

1. You decide who gets your property
2. You decide who will manage your affairs after death
3. You gain additional control and flexibility while you are living
4. Can maximize tax exclusions, potentially saving tens of thousands of dollars
5. Preserves privacy
6. Reduces chance of contest
7. Avoids probate
8. Reduces expenses
9. Eliminates time delays

Disadvantage: Higher cost to set up

## **WHAT ELSE SHOULD BE CONSIDERED?**

**DURABLE POWER OF ATTORNEY:** Allows someone else to make financial decisions in the event of incapacitation. Very important for non-trust assets

**HEALTHCARE POWER OF ATTORNEY:** Allows someone else to make healthcare decisions for us if we are incapacitated and cannot make those decisions ourselves.

**LIVING WILL:** Requests that extraordinary life prolonging procedures not be used when the condition is terminal and incurable.

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