Estate Planning 101

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Estate Planning Basics

A. Reasons to execute estate planning documents:

1. Nominate guardians for minor children
2. Control disposition of property
3. Minimize taxes and expenses
4. Facilitate the transition
   (You select your own successor trustee, health care agent, attorney-in-fact, etc.)
Estate Planning Basics, Continued…

B. Distribution of property and types of estate planning documents:

1. Intestate succession

2. Manner of holding title to property (Joint Tenancy Community Property w/Rights of Survivorship, Pay on Death Accounts, etc.)

3. Beneficiary designations (IRA, 401(k), 403(b), Life Insurance, etc.)

4. Wills

5. Living Trusts
C. Other basic “Estate Planning” documents:

1. Durable Power of Attorney for Health Care
2. Durable Power of Attorney for Asset Management
3. Property Agreement
4. General Grant and Assignment
# Estate Tax

<table>
<thead>
<tr>
<th>For Individuals Dying in:</th>
<th>Exemption Per Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004 – 2005</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>2006 – 2008</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>2009</td>
<td>$3,500,000</td>
</tr>
<tr>
<td>2010 and 2011</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>2012</td>
<td>$5,120,000</td>
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<tr>
<td>2013</td>
<td>$5,250,000</td>
</tr>
<tr>
<td>2014</td>
<td>$5,340,000</td>
</tr>
<tr>
<td>2015</td>
<td>$5,430,000</td>
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</tbody>
</table>

- Lifetime gifts greater than $14,000 per person, per year, reduce the exemption dollar for dollar

- Surviving spouses may now claim their deceased spouse’s unused exemption on a timely filed estate tax return
Common Estate Planning Mistakes

- **Not Having a Written Estate Plan**
  - Who will make health care decisions?
  - Who will control your assets and pay bills?
  - Probate and Lengthy Estate Administration.
  - Who is in charge?
  - Your wishes not carried out

- **Unfunded Trust**
  - a. Probate
  - b. Conservatorship
  - c. Assets passing outside of trust

- **Treating Children Differently** (Unless there is a good reason)
  - a. Unequal Distributions
  - b. Unequal Access – In Trust v. Outright Distribution

- **Adding Children and others to bank accounts**
  - Assets Passing Under Will
  - Assets Passing Under Trust
  - Assets Passing Via Beneficiary Designation
  - Assets Passing Via Joint Tenancy
Common Estate Planning Mistakes, Continued…

- Appointing unqualified successor trustee (eldest son, etc.)
  - Person must be responsible, knowledgeable, and organized
- Appointing one child as trustee over other child’s ongoing trust
- Failing to plan for management transition in family business
- Not having clear instructions regarding personal property
- Not formally documenting loans to children and other family members
- Not formally documenting advancements to family members
- Not communicating your health care wishes with your family and health care agents under your durable power of attorney for health care
- Not telling family about plans for charitable gifts
- Not paying attention to property tax consequences of transfers of real property to children in California (Parent/Child exemption but no Sibling/Sibling exemption)
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