

# Estate Planning



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# What is and Estate?

- A general term for all the wealth and property you have accumulated during your lifetime.



# What is Probate?

- ▶ Probate is the legal process through which a deceased person's will is authenticated, their assets are inventoried, debts and taxes are settled, and their property is distributed according to their will or applicable laws if there is no will. It is overseen by a court to ensure a proper transfer of the deceased's estate to beneficiaries or heirs.
  - ▶ Can be Costly
  - ▶ Can take be lengthy.

# What is Subject to Probate?



Personal Property



Real Property\*



Liquid Assets\*



Business Interest\*



Retirement/Investment\*

# What is not Subject to Probate?

- Jointly held property
  - Can have adverse tax consequences
    - Step up in cost basis issues.
  - Sometimes not ideal for liability purposes
- Beneficiary designated property
  - Not ideal for special circumstances
- Property conveyed by a valid Trust
  - Usually the best option

# What is a Will?

- **Created during your lifetime**
- **Gives estate to beneficiaries**
- **Names executor/personal representative**
- **Names Guardians for minors**
- **Takes effect after death**
- **DOES NOT AVOID PROBATE**

# What is a Trust?

## Two Types of Trusts

- Revocable Trust
  - Can be amended
  - Used to avoid probate
  - Very common
- Irrevocable Trust
  - Cannot be amended
  - Multiple types of Irrevocable Trusts
  - Mostly used for tax and asset protection purposes

# Revocable Living Trusts

- ▶ A living trust is a legal arrangement in which a person (the grantor) places their assets into a trust during their lifetime to be managed and distributed according to their instructions, which can occur either during their lifetime or after their death, often avoiding probate.
- ▶ Three Parties to a Trust:
  - ▶ Grantor/Trustor
  - ▶ Trustee/Successor Trustee
  - ▶ Beneficiaries



# Special Circumstances and Additional Planning

- ▶ Special Needs Trust Planning
- ▶ Asset Protection Planning
  - ▶ Protect your children against divorces, lawsuits, and creditors
- ▶ Underage Planning
  - ▶ Make sure you structure your Trust to accommodate the needs of any underage beneficiaries.

# Estate Tax Planning

- ▶ Estate Tax Planning
  - ▶ Current Exemption is 13.6 million per individual
  - ▶ Sunsets at the end of 2025 and will be roughly 7 million in 2026
  - ▶ Irrevocable Trust Planning

**\*THE ESTATE TAX IS CLOSELY TIED TO THE POLITICAL CLIMATE.**

# Proposition 19

- ▶ What is Proposition 13?
- ▶ What was Proposition 58?
- ▶ How did Proposition 19 change parent to child transfers?
- ▶ Are there any strategies around proposition 19?
  - ▶ Legal Entity Exclusion

# Reasons to Review Your Trust

- ❖ You have changes to make regarding beneficiaries and distribution
- ❖ Significant increase or decrease in your assets
- ❖ Your marital status has changed or is going to change – especially if there is a death of a spouse
- ❖ A beneficiary (whether a child or grandchild) has a disability and currently does or may need to qualify for government assistance
- ❖ A successor trustee has died or is no longer the best choice to serve
- ❖ You or your spouse are having memory lapses and/or other challenges in managing your financial affairs
- ❖ If your estate plan has not been updated to take advantage of recent law changes involving qualified plans such as IRA's and 401k's
- ❖ You have an AB trust which may be more complex than necessary for your current situation

# Any Questions?

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