

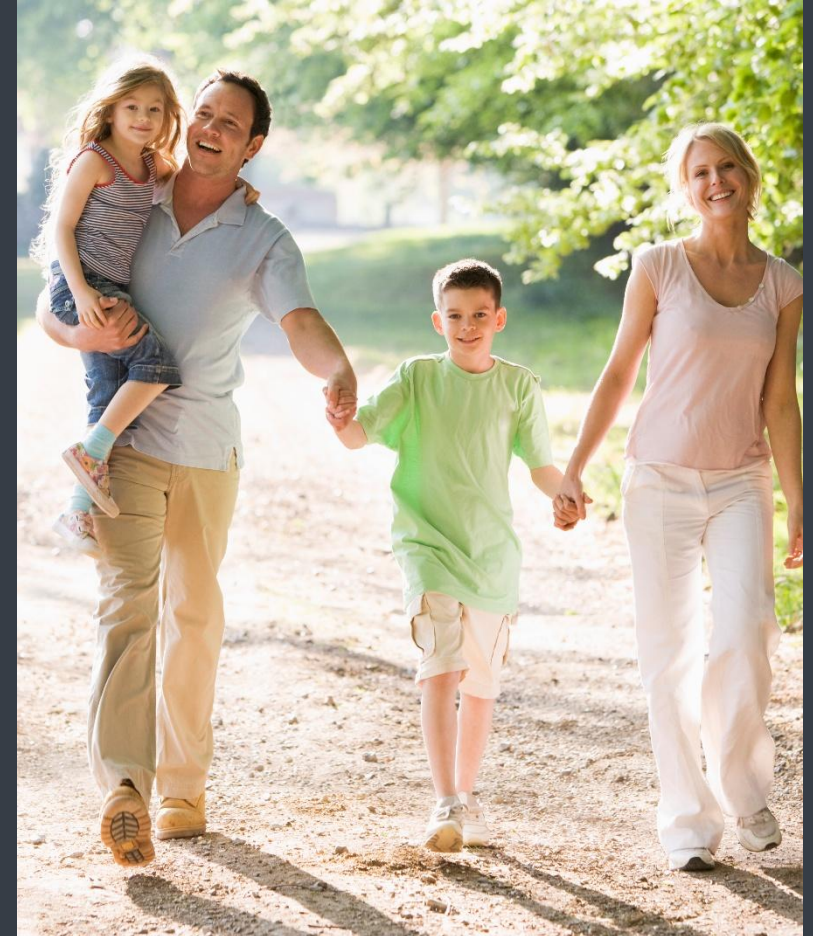


WILLS & TRUSTS

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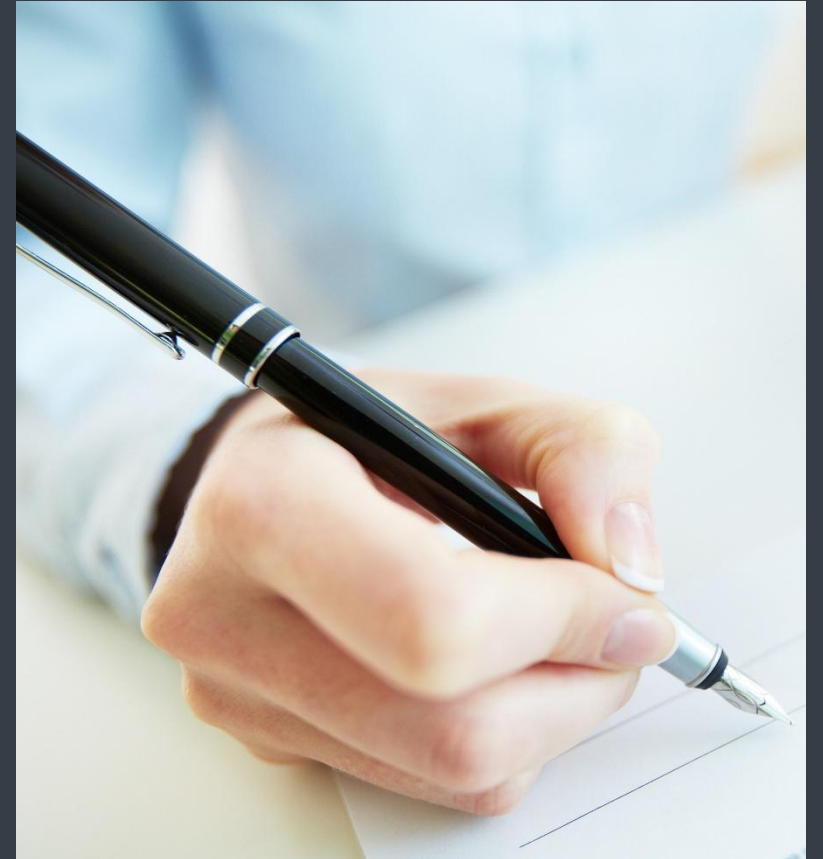
PURPOSE OF AN ESTATE PLAN

- CREATING A PLAN TO DISTRIBUTE ALL YOUR POSSESSIONS.
- PLANNING FOR ANY INCAPACITY.
- AVOIDING PROBATE.
- ASSET PROTECTION FOR BENEFICIARIES



WHAT ARE THE CORE DOCUMENTS OF AN ESTATE PLAN?

- REVOCABLE TRUST
- POUR-OVER WILL
- POWER OF ATTORNEY (FOR FINANCIAL MATTERS)
- ADVANCE HEALTH CARE DIRECTIVE



WHAT IS A WILL?

A WILL is a legal document that outlines how a person's assets and affairs will be handled after their death.

- Specifies who will inherit property, who will manage their estate, and any other final wishes they may have.
- Can help avoid potential disputes among heirs.
- Name guardians in the will for minor children.



WHAT IS A TRUST?

A TRUST is a contract that contains instructions for the distribution of assets at death, similar to a will, but it allows for more control.

- Provides for incapacity
- Provides asset protection for beneficiaries/heirs.
- Avoids probate



WHAT IS PROBATE?

- A COURT PROCESS: DEBTS PAID AND ASSETS DISTRIBUTED.
- A WILL DOES NOT AVOID PROBATE.
- ONLY ESTATES WITH A VALUE OF OVER \$208,850 (OR \$750,000 FOR REAL ESTATE).



WHY DO I WANT TO AVOID PROBATE?

- IT CAN BE EXPENSIVE.
- IT IS A LENGTHY PROCESS. (9 MONTHS TO 2.5 YEARS).
 - DURING THIS TIME, ASSETS ARE USUALLY FROZEN.
 - IF YOUR FAMILY NEEDS MONEY TO LIVE ON, THEY MUST REQUEST A LIVING ALLOWANCE FROM THE COURT.
- NO PRIVACY.
 - PROBATE IS A PUBLIC PROCESS. ANY “INTERESTED PARTY” CAN SEE WHAT YOU OWNED, WHOM YOU OWED, WHO WILL RECEIVE YOUR ASSETS AND WHEN THEY WILL RECEIVE THEM. THE PROCESS “INVITES” DISGRUNTLED HEIRS TO CONTEST YOUR WILL AND CAN EXPOSE YOUR FAMILY TO UNSCRUPULOUS SOLICITORS.
- NO CONTROL.
- EXPOSURE TO PROBATE IN MULTIPLE STATES IF OWN OUT-OF-STATE PROPERTY.

HOW TO CALCULATE PROBATE FEES (PART 1)

FIRST, CALCULATE THE VALUE OF THE ESTATE:

• Fair market value of the home (selling price, not equity):	<u>\$ 800,000</u>
• Value of other real property (including out of state property):	<u>\$ _____ 0</u>
• Bank account balances (include checking, savings & CDs):	<u>\$ 40,000</u>
• Value of mutual funds and stocks:	<u>\$ 40,000</u>
• Value of business interests:	<u>\$ _____ 0</u>
• Value of automobiles, RV's (sale price):	<u>\$ 15,000</u>
• Art, jewelry, collectibles & furnishings:	<u>\$ 5,000</u>
Total estate:	<u>\$ 900,000</u>

HOW TO CALCULATE PROBATE FEES (PART 2)

NOW, TO CALCULATE THE COST TO PROBATE THE ESTATE, TAKE:

• 4% of first \$100,000 of total estate value	<u>\$ 4,000</u>
• 3% of next \$100,000 of total estate value:	<u>\$ 3,000</u>
• 2% of next \$800,000 of total estate value (in this case \$500,000):	<u>\$ 14,000</u>
• 1% of the next \$9M :	<u>\$ 0</u>
• .5% of the next \$15M:	<u>\$ 0</u>
• For all amounts over \$15M, a “reasonable amount.”	<u>\$ 0</u>
Subtotal:	<u>\$ 21,000</u>
• Multiply subtotal times 2 because the above fees are paid to both the Executor and Attorney :	<u>\$ 42,000</u>
• Add approximate costs:	<u>\$ 2,000</u>
TOTAL PROBATE COSTS & FEES:	<u>\$ 44,000</u>

$$\begin{array}{r} \$900,000 \\ - \$100,000 \\ - \$100,000 \\ \hline \$700,000 \\ \times \quad 2\% \\ \hline \$14,000 \end{array}$$

HOW DO I AVOID PROBATE?

SET UP A REVOCABLE LIVING TRUST:

WHO: THERE IS A GRANTOR (MAKER OF TRUST), TRUSTEE (MANAGER OF TRUST) AND BENEFICIARY (HEIRS).

HOW DO I AVOID PROBATE?

HOW: TRANSFER ASSETS FROM **YOUR** NAME TO THE NAME OF **YOUR TRUST**, WHICH **YOU** CONTROL AS TRUSTEE.

- The trust becomes the legal owner of all transferred property. Thus, nothing for courts to control after you die/become incapacitated.
- No one else is involved with your trust while you are living. You maintain full control over the trust assets: make changes to the trust at any time before death, buy and sell any asset, or even cancel the trust.
- At death or incapacity, assets stay in the trust and is managed by your successor trustee.
- Your trust can continue to provide for your loved ones and protect assets from creditors, divorce and irresponsible spending. You can further specify how the beneficiaries will receive the assets (i.e., age, requirements, etc...).

WHAT DOES A SUCCESSOR TRUSTEE DO?

- **AT INCAPACITY**: Successor trustee looks after your care and manages your financial affairs for as long as needed, using your assets to pay your expenses. If you recover, you resume control.
- **AT DEATH**: Successor trustee pays your debts, files your tax returns, distributes your assets, and keeps assets in further trust as needed. All this can be done quickly and privately.

WHO NEEDS A TRUST?

- HOMEOWNERS (OVER \$750K)
- ASSETS OVER \$208,850, WHICH INCLUDES BUSINESS INTERESTS.



SPECIAL ESTATE PLANNING CONSIDERATIONS

- SPECIAL NEEDS
- DIVORCED INDIVIDUALS
- BLENDED FAMILIES
- MEDI-CAL (STATE PAY BACK)

WHAT IF I ALREADY HAVE A TRUST?

SOME CONSIDERATIONS:

- Have you or your beneficiaries had a major “life change?”
 - *Asset protection considerations for beneficiaries.*
- If married, do you currently have an “A/B” Trust?
 - *Current tax laws provide a generous exemption on estate taxes (currently \$13.99 million per individual. Compare: 1997 = \$600,000; 2002 = \$1M; 2009 = \$2M; 2010 \$5M)*
 - *Step-Up Basis is not afforded in A/B Trust scenario.*

QUESTIONS?

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