



OVERVIEW AND ESTATE PLANNING UPDATES

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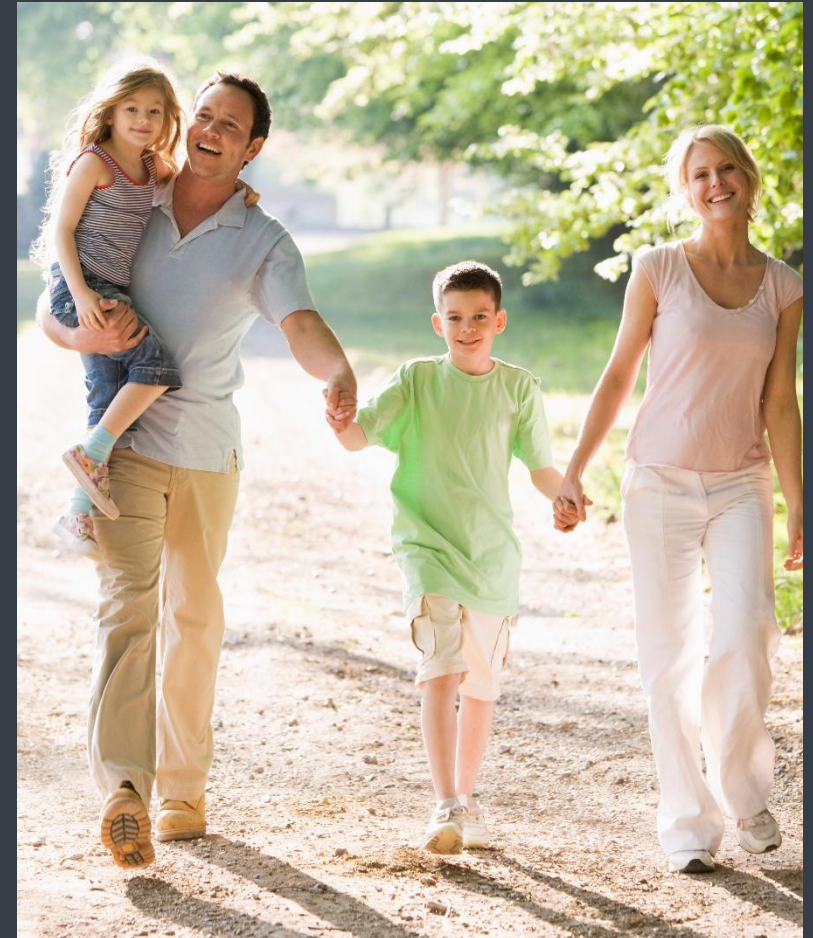
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ESTATE PLANNING FUNDAMENTALS: TODAY'S QUESTIONS

- What is an estate plan and why do I want one?
- What documents should almost everyone have?
- What is probate and why do I want to avoid it?
- What are current estate and gift tax laws?
- What is the step-up in cost basis?

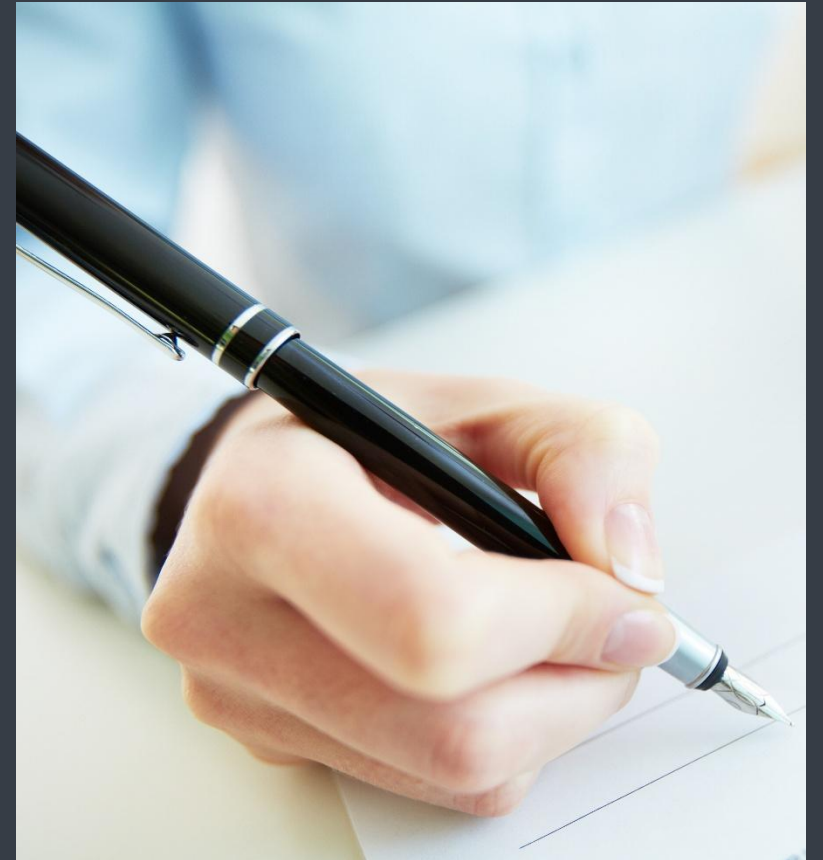
PURPOSE OF AN ESTATE PLAN

- Creating a plan to distribute your possessions to desired beneficiaries.
- Planning for any incapacity (avoid conservatorship).
- Avoiding probate.
- Avoiding disputes.
- Asset protection for beneficiaries
- Nominate guardians for minors.



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 document that outlines how a person's assets and affairs should be handled after death.
- Who will inherit.
- Who will manage their estate.
- Avoid potential disputes among heirs.
- Name guardians for minors.
- BUT, it does not avoid probate.



WHAT IS PROBATE?

- The word “probate” means “establishing the validity of a will.
- It’s a court process: will is validated, debts paid and assets distributed.
- Only estates with a value of over \$208,850, or real property valued over \$750,000.



WHY DO I WANT TO AVOID PROBATE?

- Expensive.
- Lengthy process. (9 months to 2 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. Governmental interference.
- Exposure to probate in multiple states if own out-of-state property.

STATUTORY FEES FOR PROBATE ADMINISTRATION

Probate Code §§ 10800 and 10810 set forth the following fees for the personal representative and his/her attorney as follows:

- 4% of the first \$100,000
- 3% of the next \$100,000
- 2% of the next \$800,000
- 1% of the next \$9,000,000, etc

HOW TO CALCULATE PROBATE FEES (PART 2)

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

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

- 4% of first \$100,000 of total estate value \$ 4,000
- 3% of next \$100,000 of total estate value: \$ 3,000
- 2% of next \$800,000 of total estate value (in this case \$700,000): \$ 14,000
- 1% of the next \$9M : \$ 0
- .5% of the next \$15M: \$ 0
- For all amounts over \$15M, a “reasonable amount.” \$ 0
- **Subtotal:** \$ 21,000
- Multiply subtotal times 2 because the above fees are paid to both the **Executor** and **Attorney:** \$ 42,000
- Add approximate costs: \$ 2,000
- **TOTAL PROBATE COSTS & FEES:** **\$ 44,000**

HOW DO I AVOID PROBATE? (PART 1)

- Set up a Revocable Living Trust.
- Give away assets during lifetime.
- Beneficiary designations.
- Transfer on Death
- Joint Tenancy with Right of Survivorship (but this only delays probate)
- Community Property with Right of Survivorship (again, this only delays probate).

WHAT IS A REVOCABLE TRUST?

- A contract that contains instructions for the distribution of assets at death, similar to a will,
- It allows for more control.
- Provides for incapacity
- Provides asset protection for beneficiaries/heirs.



WHAT IS A REVOCABLE TRUST?

- Avoids probate
- Fully revocable or amendable until death or incapacity.
- During lifetime, the tax ID number is grantor's SSN.



THE TERMINOLOGY FOR TRUSTS.

So many strange words... who are these people?

- GRANTOR/TRUSTOR (MAKER OF TRUST)
- TRUSTEE (MANAGER OF TRUST)
 - SUCCESSOR TRUSTEE (AT INCAPACITY OR DEATH)
- BENEFICIARY (HEIRS).
- CORPUS (TRUST ASSETS; PROPERTY MANAGED BY THE TRUST)

HOW DO TRUSTS WORK?

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.
- FAMILIES WITH MINOR CHILDREN



ADDITIONAL ESTATE PLANNING DOCUMENTS NEEDED: INCAPACITY PLANNING

1. DURABLE POWER OF ATTORNEY:

- Naming an agent to make financial decisions in the event of incapacity
- Revocable and may be limited in scope and timing (springing vs. immediate)

2. ADVANCE HEALTH CARE DIRECTIVE:

- Naming an agent to make medical and health care decisions in the event of incapacity, as well as organ donation.
- Revocable and may be limited in scope.

JOINT TENANCY WITH CHILDREN

IT DOESN'T WORK WELL!

- Problems with quitclaim deeds and joint ownership on bank accounts:
 - Capital Gains Tax Issues – Lose the right to pass property at death for current fair market value without capital gains. Lose “step-up”
 - Your assets become available resources to your children’s creditors (and vice versa) or their cash needs
- It only delays probate.

STEP-UP IN COST BASIS: WHY IT MATTERS

- Step-up in cost basis is a tax rule that resets the value of inherited assets (or the cost basis) to their fair market value as of the owner's date of death.
- Meaning, the original cost basis of the asset is "stepped up" to the current market value at inheritance.
- Applies to non-retirement assets
- Can significantly reduce capital gains tax
- Community property may receive a double step-up to the fair market value at the first spouse's death. So kids then get a double step up when second parent dies.

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.

ESTATE LAW CHANGES:

- The **One Big Beautiful Bill Act (OBBBA)**, signed into law on **July 4, 2025**, introduces major and permanent changes to federal estate law that will significantly impact estate planning strategies starting **January 1, 2026**.
- **Estate and Gift Tax Exemption Increased**
 - The federal **estate, gift, and generation-skipping transfer (GST) tax exemption** is raised from **\$13.99 million to \$15 million per individual**.
 - This new exemption is **permanent** and will be **indexed for inflation** starting in 2027.
- **Proposition 19 (2020)**
 - Effective for deaths from 2/16/21 and after.

QUESTIONS?

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