

A Few Basics About Estate Planning:

1. ABOUT WILLS:

A Will controls disposition of probate assets to named beneficiaries. Without a Will, the Pennsylvania intestacy law directs that the estate of a person survived by a spouse and children is distributed as follows: \$30,000.00 to surviving spouse; then, 1/2 to surviving spouse and 1/2 to surviving children. This may not reflect the preferred disposition of assets for some people. Contrary to popular belief, however, the Pennsylvania intestacy law does not provide for a decedent's assets to pass to the Commonwealth of Pennsylvania, except in the rare instance where the decedent has no surviving heirs beyond second cousins. A Will is also important because it appoints an Executor, the person or entity who is responsible for administration of an estate, and a Guardian, who is responsible for the custody and raising of children.

2. ABOUT LIVING TRUSTS:

Revocable Living Trusts can be created to eliminate the necessity of probate disposition of assets transferred to such Trusts. Living Trusts can provide for lifetime management of assets transferred into trust in the event of incapacity and for disposition similar to provisions of a Will at death. Although tax ramifications relating to Living Trusts and the necessity for administration at death are similar to those of Wills, Living Trusts can provide some protection with respect to public disclosure of disposition of assets and some savings on attorneys' fees charged for administration of probate assets. Living Trusts do require re-titling of assets into trust ownership during lifetime in order to be effective.

3. ABOUT IRREVOCABLE LIFE INSURANCE TRUSTS:

Although Life Insurance is not subject to PA Inheritance Tax, it has, in the past, been subject to Federal Estate Tax, if owned by the decedent at time of death, and if and when a new Federal Estate Tax Law is adopted by Congress (see paragraph 4), it likely will continue to be taxed. In larger estates which will likely be subject to the Federal Estate Tax, Irrevocable Life Insurance Trusts can be created to avoid Federal Estate Tax on insurance proceeds by transferring ownership of the life insurance to an independent Trustee. Upon death, the Trustee can collect the proceeds of the life insurance and dispose of them in accordance with the terms of the Irrevocable Trust Agreement to named beneficiaries. So-called "second-to-die" life insurance policies, which may be used to provide children with funds needed to pay Federal Estate Taxes, can also be transferred to Irrevocable Life Insurance Trusts to avoid Federal Estate Tax on policy proceeds.

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4. ABOUT DEATH TAXES:

PA Inheritance Tax does not apply to transfers, by Will or by Trust, to a surviving spouse. PA Inheritance Tax, at rates of 4.5% for close family members, 12% for siblings, and 15% for all others, applies to the taxable estate, after deductions for funeral expenses, costs of administration, and debts of the decedent. Federal Estate Tax will likely apply to larger estates, after applying a unified Federal Estate and Gift Tax Credit. The Federal Estate Tax rates that previously applied to taxable estates were graduated and heavy. The tax rate on a taxable estate of more than \$2,000,000 was 45% of the amount above \$2,000,000. A common technique used to reduce the impact of the Federal Estate Tax on larger estates for married couples involved the use of so-called Credit Shelter Trusts, B Trusts, or By-Pass Trusts. The creation of such Trusts in the Wills or Living Trusts of married couples assured the use of the Federal Estate Tax credit available to each spouse (effectively duplicating the amount of the available Tax credit) for the benefit of their children or other named beneficiaries. The Federal Estate Tax law expired at the end of 2009 and, while most practitioners believe that Congress will pass a new tax law soon, the contents of a future law can only be subject to speculation.

5. ABOUT DURABLE POWERS OF ATTORNEY:

Durable Powers of Attorney allow persons to appoint agents to act on their behalf for purposes of handling some or all of their financial affairs even in the event of such persons' legal incompetency. Changes in the law relating to Powers of Attorney require that persons granting the power sign a Notice with respect to certain legal aspects of the grant of the power and that the proposed agents sign an Acknowledgment with respect to the duties and obligations undertaken by the agents when agreeing to accept the appointment. These provisions became effective as of April 12, 2000.

6. ABOUT ADVANCE DIRECTIVES FOR MEDICAL CARE:

Advance Directives, or so-called "Living Wills," permit persons to appoint surrogates to instruct an attending physician to withhold death-prolonging medical treatment where a person is terminally ill and permanently unconscious. The law includes a list of specific treatments that may be withheld, including artificial respiration devices, stomach feeding tubes, blood products, antibiotics, cardiac resuscitation, etc.

Please call Marla Melman at 610-434-7138, extension 18, to discuss your estate planning needs.