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SOLUTIONS BEYOND THE OBVIOUS

Estate Planning: Not Just For The Wealthy

August 6, 2024

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Tool Bar Handouts

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Today's Presenters

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Agenda

- "THE BASICS"
  - ✓ Estate Planning
  - ✓ Wills
  - ✓ Trusts
  - ✓ Important estate planning tools and documents
- The Sunsetting Tax Laws & How They Impact Estates Tax
- Federal & New York Estate Tax
- The Probate Process
- Beneficiary Designations

Estate Planning 101

Estate Planning

- What is it?
  - ✓ Estate planning is the multi-generational transfer of wealth
- Why do we do it?
  - ✓ Protection of loved ones
  - ✓ Asset transfer
  - ✓ Guardian for minors or dependents
  - ✓ Incapacity protection
  - ✓ Charitable intent
  - ✓ Tax control
  - ✓ Business succession

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What is a Will?

- Legal document that governs the distribution of assets in your name
- Determines who gets what when you die
- Dying without a Will?
  - ✓ Estate goes "intestate"
  - ✓ Assets without a beneficiary designation will be distributed according to the laws of your state

Administering a Will

- Probate
  - ✓ A judge determines whether the Will is valid
  - ✓ The judge signs a court order granting power to the executor
  - ✓ Costly and time-consuming process
- Role of Executor
  - ✓ Applies to probate the Will
  - ✓ Collect assets of the estate
  - ✓ Pay debts, final expenses, and taxes
  - ✓ Distribute assets to trustees or other beneficiaries

What is a Trust?

- Legal agreement between a trustor/grantor/settlor and a trustee
  - ✓ Settlor creates Trust
  - ✓ Trustee manages Trust
  - ✓ Beneficiary receives assets
- Benefits of a Trust
  - ✓ Avoid probate
  - ✓ Control over assets
  - ✓ Tax planning
  - ✓ Incapacity planning

The 4 Types of Trusts:

Revocable Living Trust

Created while you're alive
Can be changed or revoked
Avoids probate

Testamentary Trust

Created using your will
Effective at your death

Tax Planning Trust

Minimizes taxes in high-net-worth situations
Irrevocable most of the time

Special Needs Trust

Protects beneficiaries with additional needs

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When to Consider a Trust?

- Younger Children
- Complex Families
- Privacy Concerns
- High Asset Levels

Funding a Trust

- Taxable Accounts
  - ✓ Trust ownership vs. transfer of death (TOD)
  - ✓ Account retitling
- Retirement Accounts
  - ✓ Important decisions to consider
  - ✓ Potential tax consequences
  - ✓ Individuals' names as TOD vs. Trust
- Real Estate
  - ✓ Types of deeds
  - ✓ Decisions to consider giving you the most protection

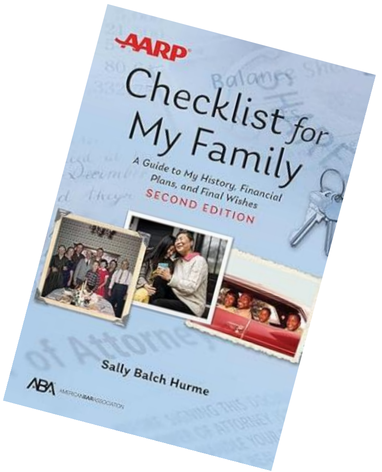
	Wills	Trusts
Complexity	Simpler documents	More complex
Key Features	Determines guardians, asset allocation, final arrangements	Applies to assets only held in trust
Control	Limited control over distribution	Greater control over when and how assets are distributed
Probate	Goes through probate after death	Minimize or avoid probate entirely
Timing	In effect at death	Has an impact when you are alive and at death

Important Documents

- Planning for disability / incapacity
- HIPAA Authorization
- Advance Health Care Directive
- Financial Power of Attorney

Planning for Peace of Mind

- Medical information
- Personal wishes & final thoughts
- Passwords & financial information
- Pets
- Insurance information
- Trusted professionals



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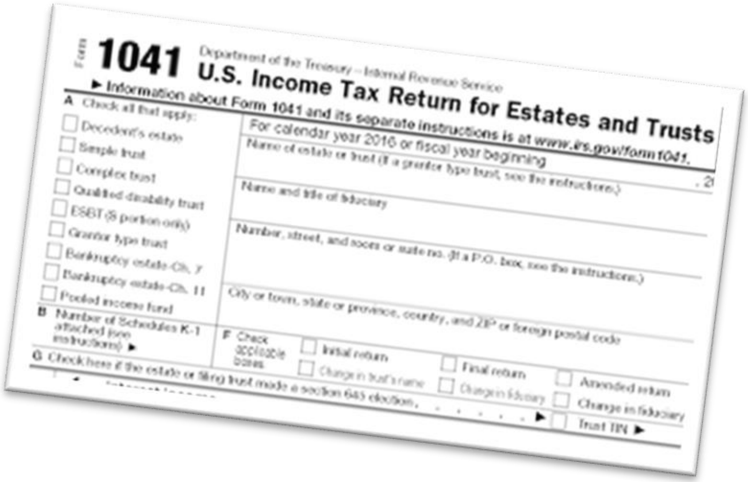
Important Tax Forms

- Final Income Tax Return (Form 1040)
- Estate Tax Return (Form 706)
- Estate Income Tax Return (Form 1041)
- Gift Tax Return (Form 709)



Countdown for Gift & Estate Tax Exemptions

- January 1, 2026, it's expected that the exemptions will be about half of what they are now, adjusted for inflation
  - ✓ ~5.6M / individual
  - ✓ ~11.2M / couple
- Proactive planning is key

When to Update Your Estate Plan

- Needs at age 18 vs. 40 vs. 65
- As needs change
- Major life events
- Substantial change in net worth

Who Needs an Estate Plan??

- Age 18 or older
- Life changes and milestones
- Reasons to update
  - ✓ Births
  - ✓ Deaths
  - ✓ Change in marital status
  - ✓ Passage of time

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Reasons Why Estate Planning is Needed for Modest Wealth

- Several States have estate exclusions well below the Federal level
- Asset protection (creditors and spend thrifts)
- Need to provide for surviving spouse
- Second (or more) marriage
- Special needs family member
- Medicaid planning
- Planned charitable giving
- Dictate how YOU want to dispose of your estate
- Among many more reasons including probate avoidance, family dynamics (alcohol and drug addition), long-term care planning, care for minor children, etc.

Federal Estate/Gift Tax

- The applicable exclusion amount is $13,610,000 for 2024 ($27,220,000 for married couple)

- The provisions of the TCJA related to the estate tax exemption is set to sunset on December 31, 2025. Starting in 2026, the applicable exclusion will revert to 2017 levels, indexed for inflation, to approximately $7,500,000.

Federal Estate/Gift Tax Tax

- The annual exclusion for 2024 is $18,000 per beneficiary ($36,000 if gift splitting is elected between taxpayer and spouse)

- Property gifted during life will retain donor's basis in the hands of beneficiaries. Property passed through estate will be afforded a "step-up" basis to FMV on date of death.

- Reasons to consider gifting now:
  - ✓ Remove future asset appreciation from estate
  - ✓ Uncertainty of future tax law legislation
  - ✓ Avoid New York Estate tax exposure

New York Estate Tax

- The NY Estate Tax exclusion is $6,940,000 for 2024. Unlike the Federal exemption, the NY exclusion is a cliff tax. Once a decedent's estate exceeds this amount the entire estate becomes taxable.
- Also, unlike Federal, NY does not have a gift tax and doesn't allow portability (surviving spouse cannot use unused exemption of first-to-die).
- Several other states have some form of an estate tax.

Probate Process

- Legal process of “proving the will” that occurs after death. Part of estate administration during the process of transferring property of a decedent’s estate to their beneficiaries and is overseen by NYS Surrogate’s Court.
- Disadvantages of probate
  - ✓ Privacy
  - ✓ Time consuming which may cause delays in beneficiaries receiving estate assets
  - ✓ Costs (court costs and Executor/attorney fees which are often based on value of estate administered through probate)

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Probate Process continued…

- Methods to avoid the probate process:
  - ✓ Living Trust
  - ✓ Lifetime gifts
  - ✓ Joint ownership (joint tenancy, tenancy by entirety, or community property (depending on state law))
  - ✓ Payable-on-Death Accounts
  - ✓ Transfer-on-Death Accounts

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POD and TOD accounts

- Adding a payable-on-death or transfer-on-death designation allows the assets in that account to be passed to a named beneficiary upon death of account holder.
- Flexible to change beneficiary designation at any time.
- Account designation will avoid probate, but also bypasses a will and account is distributed to designated beneficiary regardless of intent and wishes.
- Continue to carefully review beneficiary designations

Trusts

- A trust is simply an arrangement whereby one person holds legal title to an asset and manages it for the benefit of another
- The ability of the trust to bridge the gap between life and death is one of its most desired and advantageous characteristics

Trust purposes in estate planning

- Protecting oneself and a spouse
- Providing for a spouse and/or children
- Addressing a variety of issues relating to children, including minority, immaturity, special needs and substance abuse
- Probate avoidance
- Achieve significant estate tax savings through the use of sophisticated estate planning techniques
- Allow a person to realize charitable goals
- Protection from creditors

Elements of a Trust

- Grantor
  - ✓ person who creates the trust
- Trustee
  - ✓ any legal person or corporation who will manage the trust
- Beneficiary
  - ✓ Trust may have a single beneficiary or there may be multiple beneficiaries. Grantor can also be a beneficiary of a trust
- Powers
  - ✓ Trustee powers as determined by grantor

Living Trust

- Trust created by grantor during life by a transfer of property to a trustee (either themselves or another person).
- Powers are retained by the grantor, generally power to revoke, so they continue to control the assets.
- Does not reduce gross estate for estate tax purposes
- Upon death of grantor, trust becomes irrevocable and trustee will distribute assets in accordance with terms of the trust.

Testamentary Trusts

- Created through will upon passing of decedent
- Generally, not an effective planning tool for reducing estate tax of decedent
- Can protect trust property from estate tax exposure as it passes to next generation beneficiaries

Credit Shelter Trust

- Purpose is to utilize the unified credit of first-to-die spouse
- Trust can be funded with assets up to the amount of the unified credit while remaining assets pass to spouse through unlimited marital deduction
- Trust can provide income to be paid to second-to-die spouse for remainder of life
- Essential planning tool for New York since there is no portability of unused exemption

Special Trust Provisions

- Income Sprinkling Clause
  - ✓ Allows trustee to distribute income and principal at their discretion
- Use of Trust Principal
  - ✓ Allows trustee discretion to use trust principal
- Power of Beneficiary to Withdraw Principal
  - ✓ Allows beneficiaries to withdraw principal subject to limitations
- Hold-Back Provisions
  - ✓ Enable trustees to withhold distributions of principal in specified circumstances

Questions & Contact Us

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