



ESTATE PLANNING VIEWED IN THREE PHASES

DISABILITY PLANNING

Planning for incapacity during life

- Goals:
 - Avoid guardianship or conservatorship proceedings
 - Keep client in control
 - Avoid family discord
 - Maintain continuity in financial affairs
 - Provide for dependents
 - Make sure the lights stay on!
 - Ensure there is someone to make critical medical decisions

- Documents used to implement goals:
 - Durable Power of Attorney for finances
 - Health Care Power of Attorney
 - Living Will
 - HIPAA Authorization

ASSET/WEALTH TRANSFER PLANNING

Planning for the efficient transfer of wealth at the time of death

- Goals:
 - Quick and cost effective wealth transfer at death
 - Save every last tax dollar, professional fee, and court cost possible
 - Stream-line process for family
 - Keep client in control
 - Maintain privacy
 - Provide continuity
 - Nominate guardians for minor children

- Options used to implement goals:
 - Last Will & Testament
 - Revocable Living Trust
 - Irrevocable Trust
 - Joint Ownership
 - Beneficiary Designations

BENEFICIARY PROTECTION PLANNING

Planning for the effective transfer of values and care for loved ones after death

- Goals:
 - Provide lifetime asset protection for children from their:
 - creditors
 - divorce
 - lawsuits
 - judgments
 - Pass inheritance to children's children rather than in-laws
 - Protect "stretch" capabilities of retirement assets while providing lifetime asset protection

- Implementation of Goals:
 - Only a trust is legally capable of making all of these goals happen
 - Outside of trust, inheritance is exposed to all of children's lifetime liabilities

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MEDICAID ELIGIBILITY

Exempt (not counted) assets

- Home of the couple
- IRA's of spouse not in nursing home
- One car
- Life-estates
- Household property
- Burial funds

Married Couples

- Countable assets
 - \$100,000 or less → healthy spouse keeps \$50,000
 - \$100,000-\$238,440 → healthy spouse keeps half
 - \$238,440 or more → healthy spouse keeps \$119,220
 - Institutionalized spouse keeps \$2,000
- Income
 - Healthy spouse keeps up to \$2,980.50/mos
 - Institutionalized spouse keeps \$45/mos

Individuals

- Countable assets- \$2,000
- Income- \$45/mos

Gifts/ Divestments

- All gifts will cause a penalty
- Lookback period is 5 years

Assets

- Assets in an IRREVOCABLE trust are NOT counted

ESTATE RECOVERY

- Recovers from probate estate
- Recovers from life estate interests, based on the FMV of the property on the date of death
- Recovers from revocable trusts
- Recovers from the assets/estates of the healthy spouse
- Recovers from life insurance
- Recovers from annuities
- Recovers from joint tenancy property
- Recovers from all other non-probate assets
- DOES NOT RECOVER FROM IRREVOCABLE TRUSTS (other than funeral trusts)

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