



ESTATE PLANNING IN 2013 & BEYOND

A Special Update on the New IRS Same-Sex Marriage Guidelines

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WHAT IS AN ESTATE?



WHY DO ESTATE PLANNING?

- After Death
 - Control Who Receives Assets
 - Pay Minimum Legal Fees, Taxes
- At Incapacity
 - Control Assets, Medical Decisions

WHO NEEDS ESTATE PLANNING?



WHEN SHOULD YOU PLAN?

- **Now**
 - While You Can
 - Before You Need It
- **No Second Chance**

COMMON ESTATE PLANS

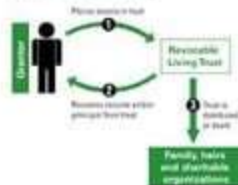


- Will
- Doing Nothing
- Joint Ownership



- Giving Away Assets
- Beneficiary Transfers
- Revocable Living Trust

Revocable Living Trust



PLAN #1: WILL

- Express Your Wishes
- Only Controls Assets Titled in Your Name
- Enforced by Probate Court



WHAT IS PROBATE?

- **Legal Process**
 - Will Validated
 - Debts Paid
 - Assets Distributed according To Will
- **Only Legal Way to Change Title**



PROBATE ILLUSTRATION

➤ Assets Titled in Just Your Name Go Through Probate



PROBATE IS BIG BUSINESS



PROBATE TAKES TIME

- 9 months – 2 years



PROBATE IS PUBLIC

- No Privacy
- Easy to Contest



PROBATE PROCESS HAS CONTROL

- How Your Will Is Interpreted
- Cost
- Time
- Privacy

WILLS & INCAPACITY

- **Will Is No Help**
- **Court Process**
 - Expensive
 - Time Consuming
 - Public
 - Doesn't Replace Probate
- **Durable Power of Attorney**



WILLS & MINOR CHILDREN

- **Court**
 - Appoints Guardian
 - Controls Finances
- **Child Inherits All at Legal Age**



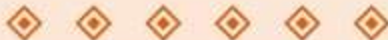
PLAN # 2: DOING NOTHING

- **At Death**
 - Probate
 - Assets Distributed by State Law
- **At Incapacity**
 - Court Controls Assets



PLAN # 3: JOINT OWNERSHIP

- Surviving joint owner has full ownership



JOHN & LISA JOINT OWNERS



JOHN DIES



LISA INHERITS
JOHN'S SHARE



LISA DIES



PROBATE

LISA'S HEIRS
INHERIT

NO PROBATE

DAN & LISA JOINT OWNERS



Lisa Marries
Dan



Lisa Dies



Dan Inherits
Lisa's Share

DISINHERITED

John's & Lisa's
Children

JOINT OWNERSHIP SUMMARY

1. Only Postpones Probate
2. Unintentional Disinheriting
3. Incapacity = Court Interference
4. Difficult to Remove Co-Owner
5. Lawsuits
6. Debts/Tax Problems

PLAN # 4: **GIVING AWAY ASSETS**

- **You Lose Control**



STEPPED-UP BASIS



	Lifetime Gifts (Your Basis)
Selling Price	\$ 350,000
Basis	<u>- 100,000</u>
Gain	\$ 250,000
Capital Gains Tax	\$ 50,000

STEPPED-UP BASIS



	Lifetime Gifts (Your Basis)	Transfers At Death (New, Stepped-Up Basis)
Selling Price	\$ 350,000	\$ 350,000
Basis	<u>- 100,000</u>	<u>- 350,000</u>
Gain	\$ 250,000	\$ 0
Capital Gains Tax	\$ 50,000	\$ 0

PLAN # 5: BENEFICIARY TRANSFERS

- Court Interference if Beneficiary:
 - Incapacitated
 - Dies First or at Same Time
 - “My Estate”
 - Minor



KEEPING CONTROL WITH A REVOCABLE LIVING TRUST



	WILL	REVOCABLE LIVING TRUST
Used 100s of Years	Yes	Yes
Names Someone To Handle Final Affairs	Yes	Yes
Names Whom You Want To Receive Assets	Yes	Yes
Avoids Probate		Yes
Avoids "Living Probate"		Yes

FUNDING YOUR LIVING TRUST



CHECKING ACCOUNT



HOME
& OTHER
PROPERTY

POTENTIAL
INVESTMENTS

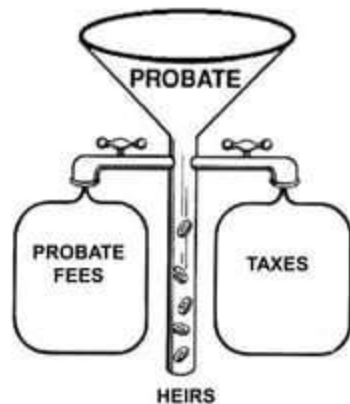


HEIRLOOMS



**CHANGE TITLES TO
YOUR LIVING TRUST**

NOTHING TO PROBATE



POTENTIAL INVESTMENTS



Stocks • Bonds



YOU KEEP CONTROL

- Buy/Sell Assets as Before
- Change/Cancel Any Time
- Trust Contains Your Instructions





BENEFITS OF CORPORATE TRUSTEE

- Experienced
- Professional Asset Managers
- Government Regulated
- Reliable
- Objective



YOU CONTROL INHERITANCE

- All At Once
- Installments
- Income Only



YOU CONTROL INHERITANCE

- Special Needs
- Supplemental Income
- Minors
- Protect from Creditors/Predators



LIVING TRUST SUMMARY

- Avoid Probate at Death
- Prevent Court Control of Assets at Incapacity
- Provide Maximum Privacy
- Allow Quick Distribution of Assets to Beneficiaries
- Keep Assets in Trust
- Prevent Unintentional Disinheriting
- Reduce or Eliminate Estate Taxes if Married

FOR MEDICAL DECISIONS

- Living Will
- Advance Directive for Health Care
- HIPPA Authorizations



2013 ESTATE TAX EXEMPTION

\$5,250,000.00

2013 GIFT TAX TAX EXCLUSION

\$14,000.00

IRS GUIDANCE FOR SAME-SEX MARRIAGES

United States v. Windsor

U.S. Supreme Court held that limiting the term "marriage" to a man and woman was unconstitutional.

Revenue Ruling 2013-17

Same-sex couples who are legally married are treated as married for all Federal tax purposes.

FIVE-STEP ACTION PLAN

- Write Down Your Objectives
- Inventory Your Assets and Debts
- Select a Professional to Help
- Have Legal Documents Prepared
- Change Titles





Thank You!

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