

Estate planning is for everyone

When he died at the age of 103, actor Kirk Douglas left behind a \$61 million-dollar estate and an estate plan delineating how every dollar should be managed. The actor and his wife, who had become known as philanthropists and humanitarians later in life, gave the entire estate to charities. In contrast to the Douglas estate, the estate of the musician Prince is still being untangled by his five living siblings. There is a common misconception that not everyone needs an estate plan, but state planning is for everyone.

Estate planning begins with understanding your overall balance sheet, the importance of titling your assets, and what implications those factors will have upon your incapacity and death.

Assets that transfer by beneficiary designation

Let's begin by looking at retirement accounts and other assets that pass by beneficiary designation upon death. These include:

- IRAs or other qualified retirement plans
- Life insurance
- Annuities
- "Transfer on Death" accounts

The owner of the accounts or policies should ensure they have properly named beneficiaries. What if a beneficiary is not named, or a minor is named? Both would likely result in unintended consequences.

Beneficiary designations should be coordinated with the rest of your estate plan and discussed with counsel to ensure your designation is appropriate given all the facts of your situation.

The importance of titling assets appropriately

With regards to assets that are outside of those listed above, proper titling should be reviewed. Are assets titled jointly, individually, in trust or another entity? Titling of assets will drive how those funds will be managed and administered upon incapacity and death.

Consider the following – if assets are held jointly with your spouse, upon one's passing the assets would be held for the surviving spouse. Sounds great, right? But what if the surviving spouse remarries and does not retain any of the assets for your surviving children?

Having an estate plan is not only a tax planning vehicle, but also a way to ensure you and your loved ones are provided for in the manner you desire.

Everyone needs an estate plan

Currently, only individuals with estates worth more than \$11.58 million are subject to federal estate taxes. This limit is at an all-time high, leading many to believe that a trust is unnecessary. However, there are many reasons outside of tax savings to utilize trust planning.

- Some states have a separate state estate tax and the exemptions are significantly lower than the federal exemption. For example, the Illinois estate tax exemption is only \$4 million in 2019. The exemption for Massachusetts and Minnesota is even less at \$1 million and \$3 million respectively.
- If your assets are held in your individual name with no beneficiary designation, not in joint title, and with no will, the assets will be distributed pursuant to the intestacy laws of the state you live.
- In the event your assets pass pursuant to your will and you have no living trust, they will be distributed as provided in the

document, but may be subject to state probate proceedings. The probate process can lead to unnecessary costs that could otherwise be avoided with the execution of a living trust.

- A trust is private, whereas a will is a public document.

What does a trust do?

During one's lifetime:

- the grantor retains full power of the assets in the trust;
- the trust is not treated as a separate tax entity for income tax purposes; and
- the trust is revocable.

In the event the individual becomes incapacitated, the named successor trustee would take over the administration of the trust assets, including distributing funds to the individual, his/her spouse, and their dependents pursuant to the terms of the governing instrument.

Upon the grantor's death, the trust becomes irrevocable. The provisions of the trust provide how the assets are retained, administered, and distributed. This serves as the grantor's "control from the grave" to ensure his/her objectives are carried out.

Assets in trust:

- Can allow for creditor protection
- May not be includable in the beneficiary's estate
- May aid in preserving assets for the beneficiary's lifetime
- Provide for beneficiaries with special needs without disrupting government aid.

If you do have an estate plan, it is advisable that these documents be reviewed every three to five years with your attorney. As your wealth advisors, we are here to help facilitate the appropriate conversation with counsel and discuss what other planning strategies may be appropriate for your family.

Sources

<https://www.irs.gov/businesses/small-businesses-self-employed/estate-tax>

<https://www.actec.org/resources/state-death-tax-chart/>

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