

# ESTATE PLANNING

## ESTATE PLANNING: A Basic Overview Of The Estate Planning Process

Estate planning, at its very elementary level, is the process of transferring a deceased person's property to those people to whom they ultimately wish their property to pass at their death.

As estate planning becomes more sophisticated, it begins to incorporate more complex planning techniques to reduce the cost of transferring your property, both before and after death, to your desired recipients.

### SIMPLEST METHODS OF TRANSFER

Some of the simplest methods to use for after death transfers are the following:

- **Pay On Death Accounts**
- **Joint Tenancy Title Holding**
- **Wills**

#### **Pay On Death Account**

A term for those assets that contractually allow its owner to designate a beneficiary to receive the asset after his death (i.e.: usually life insurance & retirement plans). On the owner's death the beneficiary is required to produce a death certificate and the proper paperwork to facilitate the transfer of the asset(s) to them.

#### **Joint Tenancy Title Holding Of Property**

A relatively simple method of transferring property to another at death. Upon the death of one joint tenant, the surviving joint tenant(s) equally own the whole of the property. This method requires a certified copy of the death certificate and the proper paperwork to accomplish the property transfer. However, although it is one of the simplest methods of transferring property at death, it is also one of the most risky for the following reasons:

- (1) The other joint tenant(s) has a right to end the joint tenancy by selling the property, in whole or part, at any time without your knowledge or approval.
- (2) The other joint tenant's creditors can seize or place a lien on the property to satisfy their debts.
- (3) Creating a joint tenancy with other than your spouse could have gift-tax liabilities for you to the extent of the gift of property you made to the other person.
- (4) Creating a joint tenancy with your spouse causes a LOSS of a FULL stepped-up-basis for capital gains tax calculations on your appreciated property, at the death of the first spouse.

**Probate Transfer of Property** results when property that is not transferred by one of the above methods, or by a trust, is transferred either by a Will or without a Will through a probate.

### **Wills**

Dying with or without a Will, absent other estate planning, results in some kind of probate proceeding being required to transfer the decedent's property to his beneficiaries. Since the decedent can no longer sign the transfer documents the court, by court order, will substitute its signature on the necessary transfer documents. The asset is transferred either according to the distribution in a Will or according to this state's intestacy laws which supply or substitute the Will's distribution for the State's public policy presumptions as to a person's desired distribution of assets after death.

The probate process costs your estate money, in the form of statutory attorney and estate representative fees and additional court required costs. These fees and costs are payable by your estate prior to final distribution of any assets. Statutory attorney's fees and estate representative fees are two different fees of like amounts paid to the respective parties stated upon completion of the probate. The statutory fees are calculated on the fair market value of the assets going through probate, not net value (i.e. after deduction for loans), as follows:

(Remember the statutory fees stated below are doubled)

ESTATE SIZE	STATUTORY FEE
\$100,000.00	\$4,000.00
\$300,000.00	\$9,000.00
\$600,000.00	\$15,000.00
\$1,000,000.00	\$25,000.00

Additional costs include the filing fee, bond fee, publication of Notice of Death fee and appraisal fee.

***For more information on Estate Planning, please see the other topics within this website or contact me to go over your particular situation and needs.***

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