

3 Steps to a Successful Estate Plan

Step 1

The first step in preparing your estate plan is to write down a list of specific objectives for your estate. We already know that your general goal is to maximize what is retained by your heirs while maintaining your financial independence and security. But you still have to decide which of your heirs gets what and when they should receive it.

Step 2

The next step is to determine the exact value and composition of your estate. This isn't as hard as it sounds. It is simply a matter of adding up what you have and subtracting what you owe. Once you've determined the total value of your estate, you'll probably need a document that conveys your wishes. If so, you will need a will, a living trust, or both, which directs the distribution and transfer of your assets after your death. If you die without a will or living trust, you are "intestate" and the state will control the distribution of your property.

Although wills vary with individual situations, there are certain common elements in every will. For example, a will should include provisions for the creation of trusts and the naming of an executor for your estate. Besides the will, your estate may include one or more trusts.

A trust is nothing more than an interim heir created by a legal document. It holds temporary title to assets which are ultimately to be distributed to heirs. The reason for placing assets in trust is to legally separate some or all of the property rights inherent in personal ownership. This includes legal title, control and economic benefit. Under personal ownership, all property rights, taxes and other obligations are vested in a single person: the owner. Under trust ownership, those rights are vested in two or more persons. Although trusts may vary according to their goals, there are certain features they all have in common. For example, all trusts have four parties:

- The **grantor**, or donor, who is the person putting the assets in trust.
- The **trustee** who is appointed by the grantor to manage the trust.
- The **interim beneficiaries**, the person or persons receiving the income during the life of the trust.
- And the **ultimate beneficiaries** who receive the assets at the termination of the trust.

Trusts can also be classified by the manner in which they are activated. If a trust is created by will and activated at the time of death, it's called a testamentary trust. Such

trusts are usually set up to handle life insurance and retirement benefits that do not come into existence until after your death. A trust that is created and activated during the owner's life is called a revocable living trust or simply a living trust. These are frequently used as an alternative to a will and have several important benefits including helping your family avoid probate, taking care of you in the event you become incapacitated, helping you save estate taxes while allowing you a way to protect your heirs.

Finally, all trusts are either revocable or irrevocable. With a revocable trust, any of the terms can be changed or eliminated at the discretion of the grantor. Because the grantor has so much control over the property rights of the assets, revocable trusts provide no significant tax benefits. But an irrevocable trust, once activated, cannot be altered (except in the case where the trust provides for a third party "trust protector" with the power to make specified changes). As a result, these trusts are often used to remove assets from an estate and to avoid estate taxes. Without going into the various different kinds of trust that exist, it is important for you to understand certain things before creating any kind of trust. You must know the goal of the trust, the best choice for trustee(s), the duties of the trustee(s), who the interim beneficiaries are, who the ultimate beneficiaries are and if the trust is revocable.

Step 3

For your third step, you should consult a qualified estate planner who can help you design a plan using trusts and other planning "tools" based on your specific objectives and the make up of your estate.

The crucial issue in the estate planning process is how to implement your plan while overcoming certain estate planning obstacles. The biggest obstacle will be your estate settlement costs. These normally include funeral expenses, attorney's fees, executor's fees, probate courts costs, appraiser's fees, state death taxes and federal estate taxes. The biggest expense of all will be the federal estate tax, which may represent the largest tax you may ever have to face. Federal estate taxes currently can take 45% of your total estate.

As you can easily see, federal estate taxes pose the greatest single threat to your estate and can quickly deplete the value of an estate that has taken you a lifetime to accumulate. If your estate is large enough to exceed the \$3.5 million exemption, there are a number of perfectly legal methods for reducing, or even eliminating, estate taxes.