



Frequently Asked Estate Planning Questions

Can I be my own Trustee?

- Not if you want the estate tax advantages of keeping the insurance death proceeds outside your estate. Often the grantor's children are named as trustee(s) but sometimes they don't have enough time or experience to perform the job properly. Many people choose a corporate trustee (a bank or trust company) because they have experience handling such trusts.

Are there any disadvantages to using a corporate trustee?

- Because they must objectively follow the directions contained in the trusts they manage, some beneficiaries (especially those who want the money now instead of when the trust states) have found them to be uncooperative. But that may be exactly what you want. One reason for setting up such trusts and using a corporate trustee is to keep a beneficiary from getting the money until the time specified by the grantor. If you are concerned that a corporate trustee would be too "impersonal," you can name a family member or close friend to act with them as co-trustee. A corporate trustee will also usually charge an annual administration fee or a fee based on a percentage of the assets contained in the trust for their services.

Is life insurance a necessary part of my estate plan?

- It is not absolutely necessary, but in many cases it is the most efficient planning device for the payment of estate settlement costs. Life insurance provides immediate liquidity at a time when it is needed most. Federal estate taxes are due nine months from the date of death with a five percent per month late penalty and statutory interest as well, if not paid on time. Without proper liquidity, your heirs may be forced to sell assets in a distress sale environment thus realizing less than full value, or they may be forced to borrow money using estate assets as collateral.

Should I consider a survivorship (last-to-die) life insurance policy instead of an individual life insurance policy?

- That depends. If your estate plan defers all estate taxes until both you and your spouse are deceased, then a survivorship life insurance product, in most cases, provides the necessary death benefit at the lowest cost.

If I am married, is survivorship always the best form of life insurance for estate tax needs?

- No. There are circumstances where an individual life insurance policy may be preferable. For example, if either you or your spouse has a significant health problem, a policy on the healthier spouse may be more cost effective. If you or your spouse is not a U.S. citizen, the estate tax may be due on the first death (you must consult your attorney if this is the case). If there is a large age difference, survivorship may not be as cost effective as insuring the younger spouse. If there is a second marriage, with children from a prior marriage, an individual life insurance policy may be appropriate. Likewise, if your "significant other" is not legally recognized as your spouse, survivorship life insurance would not be appropriate for estate tax needs.

For more information, please contact your advisor.



What is the purpose of an estate plan?

- The purposes of an estate plan is to plan for the management and disposition of your property while you are alive, in the event you become disabled, and after your death.

How do I know if I need an estate plan?

- You may need an estate plan if any of the following situations applies to you:
 1. You have children under age 18 for whom you need to designate a guardian.
 2. You have children from another marriage and you want them to receive a portion of your property.
 3. You want to give property to friends and/or charities rather than to family members (or in addition to family members).
 4. Your estate may be subject to federal estate taxes (the value of your estate assets less your liabilities and deductions is greater than the exclusion amount).
 5. You want to pick the person who will be responsible for your financial affairs if you become incapacitated.
 6. You want to pick the person who will be responsible for making health care decisions for you if you become incapacitated.
 7. You own real or personal property that you want to give to one or more beneficiaries who would not inherit the property if you were to die without a will.

What is probate?

- Probate is a court proceeding where the assets belonging to a decedent are collected and administered by a personal representative appointed by the court. The personal representative transfers the assets to the beneficiaries named in the will and is also responsible for paying the decedent's liabilities from the probate assets.



Are there any advantages to probate?

- One advantage of probate is that the probate court can resolve any disputes involving the estate and claims to its assets. Another is that a notice to creditors is published and creditors have only a limited time in which to file a claim against the estate. If they fail to file within that time period the claim is barred.

What are the disadvantages of probate?

- Probate is a public process and all of the documents and proceedings are open to the public. Probate also takes time, usually a minimum of six months or more. It is also potentially expensive as it incurs attorneys' fees, administrator's fees and other court costs.

How can I avoid probate?

- The following asset types are not subject to the probate process:
 1. Property that is held in trust.
 2. Property that is owned as joint tenants with right of survivorship or as community property with right of survivorship.
 3. Property that is held by a third party that passes to a designated beneficiary by virtue of contract, such as life insurance proceeds, retirement plan assets subject to a valid beneficiary designation and accounts at financial institutions with "pay on death" designations.

Can I avoid probate if I have a will?

- No. If you have a will your estate must first go through the probate process. This is one of the biggest misconceptions of estate planning. Some people feel that as long as their will is self-explanatory, it does not need to be probated. However, by law, your will is not effective until it is probated. Your assets titled in your name cannot pass to your heirs until the probate court enters a court order showing that the assets pass to your heirs.

What if I don't have a will or trust?

- If you die without a will or trust, the laws of the state where you reside will determine who inherits your estate. This may be contrary to what you would have desired.

When is an estate subject to federal estate taxes?

- If on the date of your death your estate exceeds the applicable exclusion amount, your estate may have to pay federal estate taxes. The exclusion amount depends on the year of death and is as follows:

Amount	Year
\$1,500,000	2004 and 2005
\$2,000,000	2006, 2007 and 2008
\$3,500,000	2009
Unlimited	2010
\$1,000,000	2011 and thereafter <i>(unless changed by Congress)</i>

Didn't Congress repeal the estate tax?

- Yes, but it doesn't become repealed until January 1, 2010. In addition, the legislation providing for this repeal provides that unless a new law is passed before January 1, 2011, the law repealing the estate tax is revoked. This means that on January 1, 2011, we have the same estate taxes we had in the year 2002 (prior to this new law). Keep in mind that between now and 2011 there will be up to three presidents and five Congresses. Anything is possible. Therefore, doing estate planning now must still include provisions for estate taxes since you could die before 2010 and/or Congress could reenact a form of the estate tax.



What is a Living Trust?

- A trust is a legal arrangement that involves a grantor (the person who creates the trust and who names the trustee), a trustee (who holds legal title to the trust assets), and beneficiaries. The term Living Trust (also sometimes called an "Intervivos Trust") refers to a trust that is created during the grantor's lifetime. It can be revocable or irrevocable. A revocable trust can be amended or terminated. An irrevocable trust cannot be changed.

What are the advantages of a trust?

- Generally, the most common reason for creation of a trust is to avoid probate. Assets that are held by a trustee in trust are not subject to probate and may be managed and distributed by the trustee immediately upon the death of the grantor. This avoids the time, inconvenience and expense associated with the probate process. Trusts can also be kept confidential, unlike probate, where everything about the process is a matter of public record. A trust can also be used to eliminate or reduce federal estate taxes.

Can I do my estate planning myself?

- Yes you can, but there is tremendous value to the advice of a qualified estate planning attorney. Although there are some inexpensive estate planning kits and software packages that allow you to do your own estate planning, they are useful only if they are properly prepared. Usually, the first time you or anyone else will learn that they are not properly prepared is when you are dead or close to it. You should not risk something as important as your estate planning to a kit that you may not complete properly. When it comes to estate planning, one size does not fit all.

How does an Irrevocable Life Insurance Trust (ILIT) reduce taxes?

- An ILIT owns your life insurance policies for you. Since you don't personally own the life insurance, it will not be included in your estate, so your estate taxes are reduced. It is important that the ILIT be properly established and the life insurance purchased without you obtaining any incidents of ownership.

How does an Irrevocable Life Insurance Trust work?

- The trust has three components. The grantor is the person creating the trust. The trustee is the person or organization selected to hold title to and manage the trust assets. The beneficiaries are the persons or organizations named to receive the trust assets.

The trustee purchases a life insurance policy with the trust as owner and beneficiary. When the insurance death benefit is paid, the trustee will collect the funds and make them available to the estate's personal representative either by loan or by purchasing estate assets. The personal representative uses the funds to pay estate taxes and other estate settlement costs such as debts, legal expenses, probate costs, income taxes, etc. The balance of the estate is then distributed in accordance with the will. The trust assets are distributed in accordance with the trust document provisions.

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