

BASIC ESTATE PLANNING

CASEY CHAPMAN

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PLANNING FOR EVERYONE

- **More than making a will**
- **Coordinating all aspects of the plan**
 - **Property**
 - **Retirement/Insurance**
 - **Investments**

PLANNING ISSUES

- TAXES
- ASSET OWNERSHIP
- WILL
- TRUSTS
- BUSINESS TRANSITION
- POWER OF ATTORNEY
- HEALTH CARE DIRECTIVE

TAXES

- **Income taxes**
 - **No income tax to beneficiary for gift or inheritance**
 - **Sale of assets (stepped up basis)**

- Dad bought land- \$20 per acre (his basis)
- Current Value - \$400 per acre
- If Dad sells, taxable gain -- \$380 per acre
- If Dad gifts to children -- their basis is \$20 per acre
- If children take at death -- their basis is \$400 per acre

TRANSFER TAXES

- Gift Tax and Estate Tax – combined
- 2009- \$3.5 Million
- 2010- No transfer tax
- 2011- \$5 Million ‘plus’
- 2017- \$5.49 Million
- 2022- \$12.06 Million ‘plus’
- 2026- back to \$5.49 Million ‘plus’??

GIFTS

- **First \$16,000 each year is excluded (also subject to a COLA)**
- **Gifts to any person in excess of annual exclusion reduce transfer tax exemption**

GIFTS

- Mom gifts \$56,000 to child
 - No prior gifts
- First \$16,000 is excluded
- Next \$40,000 reduces transfer tax exemption
- Mom's remaining transfer tax exemption in 2022 is \$12,020,000
[\$12,060,000 - \$40,000]

ASSET OWNERSHIP

- **Types**
 - **Sole**
 - **Joint**
 - **Beneficiary Designation**
 - **Houses and Land - Life Estate or Transfer on Death**

ISSUES

- **Probate issues**
 - Sole ownership
 - Avoiding probate
- **Coordinate ownership with plans**
 - CAUTION: Joint Ownership
- **Business Transition**

WILLS

- **No Will (Intestacy)**
 - **Solely owned property**
- **Making a Will**
 - **Solely owned property**
 - **Formalities**
 - **Property transfers**
 - **Minor children**
 - **Special Issues**

WILLS

(protective trusts)

- **Beneficiary possibilities**
 - Minor children
 - Disabled persons
- **Use of assets**
- **Timing of distribution**
- **Who is trustee?**

WILLS

(tax trusts)

- Tied to transfer tax exemption
- Remember.... \$12.06 Million (2020)
- Not used as often under new tax law

REVOCABLE TRUSTS

- Revocable living trusts
 - Asset ownership
 - Income taxes
 - Estate taxes
 - Disability
 - Typically, no protection from nursing home costs

IRREVOCABLE TRUSTS

- Life insurance
- Minerals
- Other limited areas

BUSINESS TRANSITION

- Family Business (Farm, etc.)
- The “Stay in the Business” Child
 - Problem with “standard” will
 - Issue of funding “fair” division
 - Other assets
 - Life Insurance
- “Nobody Wants Business” Issue
 - Sale or dissolution

POWER OF ATTORNEY

- **Durable power of attorney**
 - General powers, “plus...”
 - Words of “durability”
 - Avoid guardianship
 - Gifts under power of attorney
 - Some states...statutory form

HEALTH CARE DIRECTIVE

- Designate Health Care Agent
 - Treatment, Providers, etc.
 - Living Will Language
 - Permanent Unconsciousness

- Thank You !!
- REMEMBER
- USE A JOINT ACCOUNT, OR A WILL,
OR A TRUST, OR A JOINT ACCOUNT,
BUT ...
- MAKE A PLAN