

5 Basic Estate Planning Choices

1. Simple Wills - No Trust: This alternative is not advised because there are no probate advantages, minor children are not as well protected if you predecease and there is no trust mechanism to help manage your assets if you have mental incapacity prior to death.

2. “A” Trust: A Living Trust is set up, but all goes to the survivor upon the first death. (see below).

3. “A-D” Trust: All goes to the surviving spouse, but the surviving spouse has up to 9 months to shunt some of the first spouse-to die’s assets to a “Disclaimer Trust.” Estate tax potential savings would be the reason the surviving spouse would use this. There is no need to make any decision on use of the Disclaimer Trust until someone dies. This is the basic level trust.

Disadvantage? The surviving spouse has total control - and there is no mechanism to focus the first-to-die’s assets on the kids when the surviving spouse dies. The surviving spouse can change the Trust to give everything to a new spouse, a charity, etc.

4. “A-B” Trust: The “first-to-die’s” assets - up to \$5,340,000 shift to a “By-Pass Trust”. The Bypass Trust assets survivor “rents” the income on his/her life - and may - depending on how the trust is drafted - have restricted access to some principal (access has to be restricted to help preserve estate tax exemptions and help preserve assets for the children). Upon the surviving spouse’s death, the Bypass Trust’s remaining assets go to the children. The “Survivor’s Trust” goes to the children too, unless the Surviving Spouse has changed the game plan. Disadvantage? The surviving spouse has restrictions on the assets in the ByPass Trust - by design. The surviving spouse may chaff under these restrictions. The restrictions, however, are designed to protect a goal of directing funds to children instead of another beneficiary. The surviving spouse might have less financial flexibility when access to principal is restricted, particularly if he/she is in a “die broke” spend down mode.

5. “A-B-C” Trust: This adds another layer on top of the “A-B” if a couple’s assets exceed \$10,680,000. The “C” Trust preserves, for the children, that part of the “first to die’s” assets over the applicable estate tax exemption.



For More Information

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