

The Basic Elements of Estate Planning

While estate planning may seem to be primarily the purview of the ultra-wealthy, the truth is that it's a multifaceted process that can provide benefits to people in many different economic situations. Mark Criner III, a Trust Strategist with Baird Trust, has counseled many individuals about how estate planning and trusts can help build and protect their legacies. Here's what he told us about the elements and benefits available to anyone interested in creating an estate plan:

ELEMENTS OF ESTATE PLANS

Trusts

Trusts are vehicles for holding your assets that can shield them from taxes, help them grow for future generations, and make your charitable giving more effective. They can be revocable or irrevocable, depending on your needs and your specific situation, and can be very useful for anyone seeking to protect their legacy.

Last Will and Testament

A will is a legal declaration of how, when and to whom you want your assets to

be distributed upon your death. If you die without a will, your assets could be distributed according to the laws of intestacy in the state you live in, which could run counter to your personal wishes.

Power of Attorney

A power of attorney is a legally binding document that appoints someone to act as your agent and manage your financial or legal affairs. You can specify it as "limited" or "temporary," or "durable," which means it remains in effect until death. A living will, which is also known as an advanced health care directive, formally outlines your wishes for medical care.

Provisions in Case of Incapacitation

While no one likes to think about the prospect of becoming incapacitated, it's a real possibility at any point in our lives, and certainly as we near the end of our lives. An estate plan can help you build the structure that protects your assets and invest decision-making abilities in the people and financial institutions you trust – before the worst happens and you can't make those decisions yourself. ►

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Retirement/Life Insurance Designations

Proper beneficiary designation can help keep assets from retirement plans and life insurance policies from falling into probate, or going to outdated or deceased designees. A beneficiary designation overrides anything set forth in a will, so this is a crucial phase in the proper distribution of your assets.

Philanthropic Activity/Charitable Giving

There are a variety of estate planning tools that can help with efficient and effective philanthropic giving, including various charitable trusts, charitable endowments and family foundations. Charitable giving comes with many tax implications, so this is an area in which an estate planner can provide significant benefit.

BENEFITS OF ESTATE PLANS

Avoiding Probate

Probate court proceedings can be a cumbersome, time-consuming and often expensive process for distributing your assets after you're deceased. Having a well-executed will is no guarantee that your heirs can avoid the probate process. A detailed estate plan tailored specifically for you and your family's preferences can help direct your assets where you want them to go while keeping your heirs from going through the probate process.

Protecting Assets

As your wealth grows, so does your need to protect it from lawsuits and creditors. As part of an estate plan, gifting strategies and irrevocable trusts can help make sure that your assets stay where you intended them to be and to protect them from unknown creditors.

Mitigating Taxation

If your estate value is in danger of bumping up against the federal estate tax – the exemption for 2022 is \$12.06 million – planning strategies can help ensure the amount of tax due is reduced or eliminated so your assets remain as part of your legacy. Certain states also levy an estate or

inheritance tax, which could further diminish your heirs' inheritance without proper planning. Since state and federal tax laws can frequently change, it can be necessary to make timely updates to your estate plan.

Planning for Business Succession

Estate planning is vital for a business owner; it can ensure that the business stays within the family and is run by the people you designate with that responsibility, as well as minimizing the tax bite your heirs will have.

Protecting Confidentiality

Some elements of asset transfer, such as probate court proceedings, are public and can expose your financial situation to anyone who chooses to learn about it. Estate planning strategies like funded revocable living trusts can help protect the privacy of your assets and your legacy plan.

Safeguarding Digital Assets

Digital assets include such things as a social media profile or page, or an electronic commerce site in the name of the grantor or in the name of a company or d/b/a designation that the grantor owns or controls. Some of these digital assets have tangible value, but they're not all transferable upon death. Make sure your estate plan addresses your most valuable digital assets.

Preserving Long-Term Family Legacy

And finally, the most important reason to make use of estate planning is to ensure that subsequent generations are able to enjoy the legacy you've worked so hard to provide.

Please reach out if you or anyone you know would benefit from discussing this topic further.

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