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ESTATE PLANNING FUNDAMENTALS

A. Everyone has a will -Testate or Intestate

1. Intestate your state legislature decides
 - a. Most expensive
 - b. Least efficient
 - c. Can be unfair to heirs
2. Testate -you decide
 - a. You control expenses (within limits)
 - b. Can be-YerY efficient
 - c. Protects minor children and heirs

B. Cost of dying

- 1 .Probate Costs -costs money and time.
2. Guardian and/or Administrator
3. Valuation expenses
4. State inheritance taxes -Also get portion of Federal estate taxes, being phased out under new tax law. Expect new inheritance taxes
5. Federal Estate Taxes -Maximum Rates -2006 = 46%, 2007-9 = 45%,2010 = 0%
 - a. Spousal Exemption -misuse can cost heirs \$200,000 to \$900,000+
 - b. Unified Estate and Gift Tax Credit -2006-7-8 = \$2,000,000
2009 = \$3,500,000, 2010 = NONE, 2011 = ????????
 - b. Currently assets "step up" in tax basis at death -escape capital gains taxes. After 2010, only \$1,300,000 can be stepped up in basis, with an additional \$3,000,000 for a spouse.

C. Trusts

- 1 .Separate legal entity .
2. Grantor
3. Beneficiary(s)
4. Trustee(s)

D. Testamentary Trusts

- 1 .Created by will at death
2. No expense until activated
3. Changeable until death.
4. Limited Applicability

E. Revocable Living Trusts

1. Flexible -can be changed at will during your life
2. Control -Grantor can be both Trustee and beneficiary
3. Saves on Probate costs
4. Cuts legal costs at death
5. Saves time. Immediate access to assets of the estate
6. Much faster probate and distribution

F. Pour-over wills

1. Pours any assets not in Living Trust into it at death
2. Take care of small details and memory lapses

3. Flexible -small bequests can be made outside Living Trust

G. Living will

1. Designates person(s) to make decisions on "pull the plug" or organ donations.

H. Powers of Attorney

1. Designates person(s) empowered to act in incapacity
2. Designates person(s) empowered to act in disability or coma
3. Important in lingering death situations. Can decrease estate by gifting

I. Charitable Contributions

1. Get assets out of estate which saves death taxes
2. Save on income taxes
3. Save capital gains taxes
4. Can allow control after death
5. Feel good

J. "Wealth Replacement Trusts" -Irrevocable Life Insurance Trusts

1. Replaces assets given to charity and/or paid in death taxes
2. Funded by gifts to heirs -can ensure continuation of family business
3. \$11,000 annual gift times number of heirs equals maximum available premium
4. Can also use part of Unified Gift and Estate Credit
5. Can ensure funds are there to pay estate taxes at death
6. Can ensure survival of private family business.