

Courtesy of: Royalty Owner Help Desk

Estate planning

By the numbers

- **Two for one:** With thoughtful estate planning you may be able to reduce your beneficiaries' tax bill and gain peace of mind.
- **\$3.5 million** is the federal estate tax exemption through 2009, and the exemption is not applicable in 2010.*

* These amounts were set by the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and are scheduled to expire after December 31, 2010. Unless extended by Congress before then, these provisions will revert back to tax laws in effect prior to the passage of EGTRRA.

Source: seniorlaw.com

Effectively managing your estate

Estate planning is not just about tax planning. It comprises a variety of sensitive issues that need to be considered and included in a plan that will tell your survivors what steps to take when you are incapacitated or no longer here. This planning sheet will give you an overview of information and actions you need to consider when working with your advisors to put your goals and action plans into writing.

Consider taking these steps to ensure your plan protects your family.

Keep your intentions clear

Draft a letter of instruction. A letter of instruction will let your family members know what initial steps they should take after you are gone. In the letter, be sure to

- indicate where you keep important documents, such as bank and investment statements, your will, and life insurance policies
- provide the names and addresses of people to contact, including your attorney, financial advisor, accountant, and the executor of your estate

Keep your will current. Most attorneys recommend that you review your will every two years. Be sure to review it soon after any major life event, such as a divorce, a marriage, a birth, an adoption, or after a major business event, such as a job change, the sale of a business, or the sale of property.

If necessary, take the time to retitle your assets. If you establish a living trust, be sure to take the time to transfer your assets into the trust. Assets that are not transferred to the trust may have to go through probate.

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Key points

- Prepare early for what must be faced should you or your spouse die or become disabled.
- Frequent changes in tax and other laws require careful planning.
- Make certain that your plan addresses — and facilitates solutions to — the many issues that may affect you and your family under difficult circumstances.
- Work with your financial, legal, and tax advisors to ensure that you are using accurate information and operating under current estate and tax laws.

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Avoid potential mistakes

Writing a “sweetheart will.” Leaving everything to your spouse may seem like the simplest, most romantic thing to do. But a sweetheart will can unnecessarily increase the taxes that your estate will incur when it eventually passes to your children or other heirs.

Holding assets jointly with children.

Designating anyone other than your spouse as joint owner of an account can create unexpected problems. If the other person’s ownership interest in the account exceeds \$13,000, the 2009 tax free gift limit, you could incur a gift tax. If the person gets into financial trouble, creditors or the courts could go after the money in your account. Other steps — such as establishing a living trust or using transfer on death registrations for investments — may facilitate a transfer of assets at your death without some of the potential problems joint ownership could create.

If you are unmarried

Remember that property shared by unmarried couples generally is governed by contract, not family, law. Whoever is listed on the title of an asset is considered the owner unless there is an agreement to the contrary. In most states, if you die, your partner — unlike a spouse — would not inherit property by law. You may want to consider retitling certain assets.

Have a will and consider using trusts to protect your partner.

If you die “intestate” — that is, without a will — your partner generally will not have any legal rights to assets held in your name unless he or she is designated as a beneficiary of the asset (such as a bank account or insurance policy) because most states’ intestacy rules do not recognize an unmarried partner as a legal relative for inheritance purposes. For that reason, you may need a will to make sure all your assets pass according to your wishes.

Prepare for incapacity

As part of your estate plan, you will also want to take steps to protect your family if you become seriously ill or disabled. Consider taking advantage of the following tools.

Long-term care insurance. If you are not wealthy enough to cover the costs of a prolonged nursing home stay, and if you will not qualify for the nursing home coverage provided by the state Medicaid programs, you will need to consider buying long-term care insurance. Your insurance agent or financial advisor can help you find a policy that provides optimal coverage within your price range.

A durable power of attorney.

With this document, you can name someone to manage your financial and personal affairs if you no longer can. Among the powers you can grant are the authority to make gifts, conduct real estate transactions, assign ownership of a life insurance policy, or change a policy’s beneficiary.

If you have a basic living trust, you may not need to use a durable power of attorney because your successor trustee can make decisions about the assets you own in your trust. However, using a durable power of attorney may be less costly than establishing a trust.



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A living trust or durable power of attorney can also help you maintain your privacy. If you do not have either tool in place and become disabled, it could be necessary to petition the court to appoint a guardian to oversee your affairs. Such petitions are part of the public record.

A health care proxy. This document enables you to designate another person to make health care decisions on your behalf if you become incapacitated. This may be especially important if you wish to have someone other than your closest relatives making decisions for you.

A living will. In this document, you can specify the type of medical treatment you wish to receive and under what circumstances the treatment should or should not be administered in case you are suffering from an incapacitating condition. Your attorney can help you prepare these documents in compliance with any applicable federal or state law requirements.

Think about taxes

A repeal of the estate tax. In 2010, the estate tax will be repealed for one year only. Unless there is further action by the U.S. Congress, the estate tax will return in 2011. So you and your advisors will need to bear in mind the uncertainty with regard to future estate tax laws.

Current estate tax schedule*

	Top estate and gift tax rate	Exemption amount
2009	45%	\$3.5 million
2010	estate tax repealed; 35% tax for gifts	exemption not applicable; \$1 million lifetime exemption
2011	55%	\$1 million

* Source: journalofaccounting.com

Resources

Internal Revenue Service

irs.gov

Tax Policy Center

taxpolicycenter.org

This material should be used as helpful hints only. Each person's situation is different. You should consult your financial advisor before making any decisions.

Contact your financial advisor for more information, or visit mfs.com.

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