

## 1.

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### **What is Estate Planning?**

Legal process for the orderly disposition of your property when you can't control it.

- Death
- Incapacity due to disability or mental defect
- Lack of legal capacity – minor

Consists of titling of property, legal documents to effect transfers, and life insurance

## 2.

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### **What are the types of property titles?**

- Individual
- JT & JTWRROS – joint tenancy
- Tenants in Common
- Community Property
- In Trust for
- POD/TOD – payable/transfer on death

## 3.

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### **What is a beneficiary designation and how does it work?**

Beneficiary designations contractually determine who receives an account after your death. They affect life insurance, IRAs, and accounts titled with a beneficiary designations ('POD or TOD'). Properly arranged beneficiary designations avoid probate.

## **4.**

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### **What is probate and why should I avoid it?**

- Probate is the process by which assets of a dead person are disbursed.
- A will does not avoid probate. When a will is probated it becomes a public record and is available for anyone to see.
- Probate is a legal supervised process for disposition of property.
- Probate is time consuming.
- Probate can be costly.
- No ability for tax planning.

## **5.**

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### **Do I need a will?**

- Only if you might die.
- Wills are written designations of the disposition of our property on death.
- Wills allow the appointment of an administrator of an estate.
- Wills allow the designation of a guardian.
- Wills allow for systematic distribution of property.

## **6.**

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### **What will happen if I don't have a will?**

- If you don't have a will you go through intestacy, which is where the state decides where your property will go.
- State decides the heirs pursuant to a formula (age 18).
- State decides the administrator.
- State picks the guardian for the kids.

## **7.**

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### **What if I have property in more than one state?**

- You make a lot of friends in the legal business.
- Multiple states can mean multiple probates.

## **8.**

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### **What is a Durable Power of Attorney?**

- Durable Power of Attorney allows the designation of an agent to act on your behalf in the event of a disability.
- Includes financial powers, like tax filing, dealing with employer benefits, banking, real estate and so on.
- Springing Durables versus General.
- Pick the agent carefully.

## **9.**

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### **What is a Medical Power of Attorney?**

- Medical Power of Attorney designates a patient advocate to act on your behalf in the event of incapacity
- PA makes medical decisions
- Hire/fire, doctors or hospitals
- Allow pain relief
- Pull the plug
- Make anatomical gifts

## **10.**

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### **What is a Trust and how do they work?**

- A Trust is a separate legal entity to hold your assets.
- Can be created at death (testamentary) or during life (a living trust).
- Allows control and management of property.
- Can avoid probate.
- Can be speedy and secret.
- Can be expensive to set up.
- Allows for tax planning.

## 11.

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### **What are death and estate taxes?**

#### **Federal estate taxes**

- On bigger estates (over \$2M for 2006).
- Tax rates start around 45% and go to 50%.
- Each person gets a \$2M exclusion for 2008, \$3.5M for 2009, unlimited 2010 and \$1M for 2011.
- Married people can transfer assets between each other to defer estate taxes. (Consult a tax professional).

#### **State death and estate taxes**

- Most states have some form.

## 12.

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### **What are special situations to consider?**

- Second Mariages
- Disabled Child/Sibling
- Family Problems
- Large Estates
- In-laws/out-laws
- Charities

## 13.

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### **How do I get this done?**

- Consult an attorney to advise on best plan for your situation. Should be an attorney who specializes in estate planning not a general practitioner.
- Check titling of accounts.
- Check beneficiary designations.
- Must have a Will, POA and a Medical POA.
- Consider a Trust.