



The Basics of Estate Planning

Estate planning is often only considered essential for wealthy or older individuals. If you have loved ones, however, you should have some form of estate plan regardless of your level of wealth.

The Basics

- Estate planning means providing for your family after you are gone. It allows you, not the court, to make important decisions about caring for your loved ones and the disposition of your property.
- With a proper estate plan you can make these major decisions.
- Who do you want as the executor to settle your estate? That person should be someone who is qualified, trustworthy and understands your wishes.
- How will any minor children be protected? This includes naming a guardian on the death of both parents and making decisions about the future financial security of the children.
- How will your assets be distributed? Wills are used to designate who will receive your assets. Trusts may be useful for the ongoing management and distribution of your assets.
- How can the costs of administering your estate be minimized? Proper planning can reduce probate fees and any estate taxes.

Federal Estate Taxes

The 2001 tax law changes made significant changes in the taxation of estates. In essence, the size of estates that will end up owing no tax is increasing. In addition, the estate tax rates are being reduced.

These changes continue through 2009. Then, the entire estate tax is eliminated, but only for 2010. In 2011, the rules in existence before the changes (the 2000 rules) are reinstated. Many expected that Congress would make changes before 2010, but they did not. Most tax professionals believe that Congress will address estate taxes in 2010 and implement some form of estate tax. Some even believe that the change could be retroactive to the beginning of 2010.

How does an estate get taxed?

The federal government levies a tax, payable by your estate, with rates up to 45% (for 2007) on the largest estates. The tax is charged against the value of the estate after allowable deductions are taken. Deductions include burial expenses, existing debts, charitable contributions and accrued taxes. In addition, any assets left to a surviving spouse are not included in the taxable estate. After the estate tax is calculated, there is a credit against that tax. The result is that many estates pay no tax. The amount of the credit is increasing and below is a chart indicating the size of taxable estates that will be subject to tax after the credit. Many expect that the rates and levels where taxes will begin to be due will be changed over the next few years.

Year	Estate size where taxation starts	Top estate tax rate
2009	\$3,500,000	45%
2010	No estate taxation	
2011	\$1,000,000	55%

You should note that the tax is levied on the fair market value of your assets and not the cost basis. For many individuals, the values of their stock portfolios or small business interests have grown significantly over the past few years.

Issues For Younger People

Choosing a guardian for your children is critical. If both parents die and no guardian is named, the court will decide on someone to care for your children. That is probably a choice you want to make yourself. Life insurance may be appropriate to ensure there are funds for the ongoing care and support of family members.

Issues For Older People

As people age and accumulate wealth, the need for life insurance may dwindle. The nature of their estate plans becomes more focused on the financial aspects – minimizing any estate taxes, establishing trusts for surviving family members and deciding who receives financial assets and other personal items.

Use an Expert to Create and Update Your Estate Plan

Estate planning is not a task to be taken lightly. Rules are complex and may differ by state. A qualified attorney can ensure that your estate plan accomplishes your objectives.

An estate plan should be reviewed periodically (generally every 3 or 4 years) as your situation or the rules change. Births of children, changes in marital status, increases in income or wealth, or moving to another state should also trigger a review of your estate plan.

The new (and confusing) rules should prompt almost everyone to review their estate plan. It is important that your will and other documents take the new laws fully into account.