

YOUR ESTATE PLAN
(2011 EDITION)

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WHAT IS ESTATE PLANNING?

This brochure is intended to serve as an overview of the estate planning process and to assist you with your estate planning decisions. Estate planning may require a Will, a Living Trust, a Durable Power of Attorney, a Health Care Power of Attorney and additional documents, depending upon the complexity of your estate. The techniques discussed are general in nature. A more detailed discussion will be required prior to implementing your estate plan.

Many people spend their lifetime building their estates (home, automobiles, jewelry, furniture, investments, life insurance, businesses and retirement benefits), but spend very little time in planning for the use and transfer of those assets.

Estate planning is planning for the accumulation, utilization and transfer of your wealth. Many people believe estate planning is only for the wealthy, but estate planning can benefit families of modest means as well. Estate planning can be simple or quite complex depending upon your circumstances and your objectives. It is a lifelong process of preparing now for the future. The focus of your plan will change during various stages of your life.

Traditional Estate Planning is PLANNING for:

- 1. Transferring Assets Upon Your Death Including:**
 - (A) Naming your beneficiaries.
 - (B) Determining how and when your beneficiaries will receive their inheritance.
 - (C) Selecting who will manage your estate, i.e. the personal representative, trustee, conservator (guardian) of minor children.
 - (D) Providing for the orderly continuation or sale of the family business or other major assets.
- 2. The Reduction of Estate Taxes and Administrative Expenses.**
- 3. The Management of Your Assets and Your Care in the Event You become Disabled.**

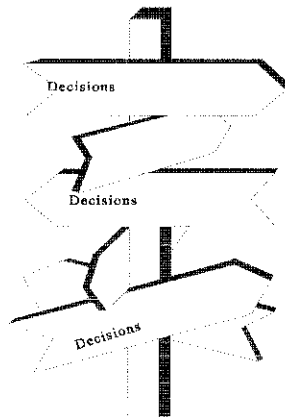
Estate planning also includes pre- and post-retirement, financial planning, and income tax planning.

SOME CONSIDERATIONS IN ESTATE PLANNING

To begin the estate planning process, you must determine your objectives, review your assets, and assess your needs. Prior to drafting your estate plan, you may wish to consider the following questions:

1. **Durable Power of Attorney.** Do you need a Durable Power of Attorney? If you do not currently have one, the answer is most likely yes. If yes, should the Power of Attorney be effective immediately or only in the event of disability?
2. **Patient Advocate.** Do you wish to designate a "patient advocate" to make decisions concerning your care, custody and medical treatment?
3. **Will.** Do you need a Will?
4. **Avoiding Probate.** Should you take steps to avoid probating your estate?
5. **Jointly Held Property.** Have you weighed the advantages and disadvantages of jointly held property, especially with your children?
6. **Using Trusts.** Would the establishment of a Trust assist you in meeting your objectives?
7. **Reducing Death Taxes.** Can state and federal death taxes be reduced? Should gifts be made?

In order to complete your estate plan, the value of your assets should be estimated. Assets include cash, stocks, bonds, personal residence, other real estate, closely held business interests, annuities, retirement benefits, life insurance, automobiles, art work, and jewelry which you own.



DURABLE POWER OF ATTORNEY

Estate planning includes providing for the management of your assets in the event you become disabled. Disability may arise from a number of different circumstances, e.g., illness, senility, injury, or accident. For this reason, the Durable Power of Attorney is an integral part of your estate plan.

In the event of disability, conservatorship proceedings in the probate court may be necessary. In these proceedings, the court may appoint a fiduciary, called a conservator, to act on your behalf during the period of your disability. Conservatorship proceedings (a) are public; (b) may require the expenditure of legal, accounting, and court fees; and (c) necessitate continued court jurisdiction and filings until your disability ceases.

The Durable Power of Attorney is an alternative method of managing your assets and financial affairs in the event of your disability. A Durable Power of Attorney is a written document in which you designate a person or an institution to act on your behalf. The Durable Power of Attorney continues throughout the period of your disability. However, the Durable Power of Attorney is not a Will substitute because it terminates upon your death.

In summary, the Durable Power of Attorney is a simple and inexpensive tool that allows for the management of your assets and financial affairs should you become disabled. You may revoke a Durable Power of Attorney at any time so long as you are competent. In addition, your Durable Power of Attorney may be as broad or as narrow as you wish to make it.

The agent you designate under your Durable Power of Attorney may be an individual or an institution. The agent designated is a fiduciary which means they must act in your best interest and they may not commingle your funds with theirs. Your fiduciary must act as a reasonably prudent person would act in dealing with their own assets.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE APPOINTMENT OF A PATIENT ADVOCATE

Michigan law does not recognize a “living will” or “medical directive.” Thus, documents of this nature provide little assurance that your wishes will be carried out with respect to life-sustaining treatment if you are terminally ill or in a persistent vegetative state. However, Michigan has adopted legislation authorizing a Durable Power of Attorney for Health Care.

A properly implemented Durable Power of Attorney for Health Care will allow you to state your desires with regard to your care, custody and medical treatment decisions including the “living will” or “medical directive” type of language concerning life-sustaining treatment if you are terminally ill or in a persistent vegetative state.

You must be at least 18 years of age and of sound mind to have a Durable Power of Attorney for Health Care. In a Durable Power of Attorney for Health Care, you appoint another individual, known as a Patient Advocate, to make any medical treatment decisions that you cannot make on your own behalf. Under Michigan law, the authority of the Patient Advocate becomes effective only when you are unable to participate in medical treatment decisions concerning yourself. Your inability to participate in medical treatment decisions is determined by your attending physician and another licensed physician.

The Durable Power of Attorney for Health Care serves as a set of directions to guide the Patient Advocate with respect to your medical treatment once you are unable to participate in making those decisions. The State of Michigan provides some choices for your general direction. Those choices are listed for you on the following page.

The person you designate as Patient Advocate in your Durable Power of Attorney for Health Care must accept the Patient Advocacy in writing. In the event the person you designate as Patient Advocate is unable or unwilling to serve for any reason, you may also appoint successor Patient Advocates. You have the right to revoke a Durable Power of Attorney for Health Care at any time.

MEDICAL CARE POWER OF ATTORNEY CHOICES

The following excerpt is taken directly from the Durable Power of Attorney for Health Care which will be prepared by Passaro, Kahne & Taylor Law Offices, P.L.L.C.

- (A) **Specific Instructions Regarding Life Sustaining Treatment.** I have a right to make my own decisions concerning treatment that might unduly prolong the dying process. I direct that reasonable measures be taken to keep me comfortable and relieve pain.

-
- Choice** (1) I do not want my life to be prolonged by providing or continuing life sustaining treatment if any of the following medical conditions exist:
- (a) I am in an irreversible coma or persistent vegetative state.
 - (b) I am terminally ill and life sustaining procedures would serve only to artificially delay my death.
 - (c) Under any circumstances where my medical condition is such that the burdens of the treatment outweigh the expected benefits. In weighing the burdens and benefits of treatment, I want my **PATIENT ADVOCATE** to consider the relief of suffering and the quality of my life as well as the extent of possibly prolonging my life.

I understand that this decision could or would allow me to die.

-
- Choice** (2) I want my life to be prolonged by life sustaining treatment unless I am in a coma or vegetative state which my doctor reasonably believes to be irreversible. Once my doctor has reasonably concluded that I will remain unconscious for the rest of my life, I do not want life sustaining treatment to be provided or continued. I understand that this decision could or would allow me to die.

-
- Choice** (3) I want my life to be prolonged to the greatest extent possible consistent with sound medical practice without regard to my condition, the chances I have for recovery, or the cost of my care, and I direct life sustaining treatment be provided in order to prolong my life.

- (B) **Other Specific Instructions.**

DELEGATION OF PARENTAL POWERS

The Delegation of Parental Powers is utilized when you are unavailable to make medical decisions on behalf of your child(ren). They are most commonly used when your children are under the supervision of someone else, such as during vacations, business trips, visits to relatives, etc. Under Michigan law, you, as a parent, may delegate your parental powers (except consent to marriage or adoption) for a period not exceeding six months.



THE PROBATE PROCESS

Purpose of Probate

Probate is a court proceeding where at your death assets held in your name alone are gathered, your bills are paid, and your property is distributed to your heirs or devisees. Probate proceedings may be formal (supervised) or informal (independent).



Court Supervision

What Assets are Subject to Probate?

1. **Individually Owned.** Individually owned assets.
2. **Joint Property Without Rights of Survivorship.** Joint property which is owned without rights of survivorship (e.g. in tenancy in common interest).
3. **Assets With Beneficiaries When the Estate is Named as Beneficiary.** Life insurance, annuities, IRAs, 401(k) plans and other retirement benefits if you have neglected to name a beneficiary and/or your estate becomes a beneficiary by default.

What Assets are *Not* Subject to Probate (Non-Probate Assets)?

1. **Joint Property With Rights of Survivorship.** Property owned jointly with survivorship rights.
2. **Trust Assets.** Assets transferred in a Trust prior to death.
3. **Assets With Beneficiaries, When the Estate is *Not* Named as Beneficiary.** Life insurance, annuities, IRAs, 401(k) plans and other retirement benefits where specific beneficiaries (other than your estate) are designated.

Advantages and Disadvantages of Probate

The advantages of probate are:

1. **Court Supervision Over Disposition.** Probate ensures that the assets of your estate will be transferred to those who are entitled to receive them.
2. **Creditors Claim.** The probate process can force creditors to file claims in a timely manner and in some cases can serve to cleanse assets from creditors' claims.

3. **Abandonment of Assets.** Some assets may be subject to encumbrances in excess of the value of those assets. In the probate process, those assets may be abandoned in order to insulate your heirs from such liabilities. An example would include real property with environmental problems.

The disadvantages of probating an estate include:

1. **Cost.** Additional fees will be incurred such as attorney fees, court filing fees, an inventory fee, and publication fees. (It is sometimes difficult to balance the cost of transferring assets during lifetime with the cost of probate.)
2. **Delay.** Probate is time consuming compared to alternate methods of transferring assets such as joint tenancy or trusts. Probate takes a minimum of 5 months to complete. However, in most cases the process becomes much lengthier.
3. **Publicity.** Since probate is a court proceeding, all of the documents filed in the proceeding are a matter of public record. If probate is avoided, court proceedings are not required.

Avoiding Probate

Much is being written about avoiding probate. In most cases, avoiding probate will not avoid federal estate taxes and state inheritance taxes. Examples include:

1. **Beneficiary Designations.** Many assets such as life insurance, 401(k) benefits, retirement plan benefits, IRA benefits and annuities transfer to a named beneficiary upon your death. Proper selection of a beneficiary will avoid probate as to these assets. You should be sure that the beneficiaries you have selected are consistent with your estate plan. In addition, you should select a secondary beneficiary in the event the primary beneficiary is not living.
2. **Joint Ownership With Rights of Survivorship.** Property owned jointly with rights of survivorship is not subject to probate at the death of the first joint owner. However, jointly owned property may be subject to probate at the death of the survivor. (See Joint Ownership section of this brochure for a detailed discussion.)
3. **Inter Vivos Trusts (i.e., Revocable Living Trusts).** Assets transferred into trusts prior to death are not subject to probate. A popular method to avoid probate is to title assets into a Revocable Living Trust during lifetime. (See Living Trusts section of this brochure for a more detailed discussion.)

YOUR WILL

The Will is an essential part of any estate plan. The Will is the tool used in the probate process to direct the distribution of *assets owned in your own name alone*. A Will does not avoid probate; it is simply a roadmap through probate.



1. **A Will allows you:**

- (A) To select your beneficiaries.
- (B) Select the guardian and conservator for your minor child(ren).
- (C) Select the personal representative (executor) of your estate.
- (D) Utilize federal and state tax planning opportunities.
- (E) To provide for the distribution of assets received unexpectedly, such as a wrongful death claim or inheritance.

2. **A Will does not pass title to:**

- (A) Jointly owned property with rights of survivorship.
- (B) Life insurance benefits.
- (C) Retirement benefits, 401(k), and IRA benefits.
- (D) Annuities.
- (E) Assets titled into a Trust prior to your death.

3. **A Will alone is not sufficient:**

- (A) To replace the need for a Durable Power of Attorney and a Designation of Patient Advocate, which documents are effective only during your lifetime;
- (B) To avoid the probate process; or
- (C) To eliminate federal or state inheritance taxes.

It is important to recognize that Wills are only one document used in the estate planning process and that additional estate planning documents are required.

4. **Intestate Laws (If you die without a Will)**

If you die without a Will, your assets pass according to the laws of intestacy. These laws are designed to distribute property as the State believes most people would desire. However, the State's plan may differ from your objectives. Without a Will, settling some estates may be more troublesome, more costly, and may create unnecessary family problems.

JOINTLY HELD PROPERTY

Jointly held property may be with or without rights of survivorship. A joint tenancy without rights of survivorship (tenancy in common) is a probate asset. Joint tenancy with rights of survivorship is not a probate asset and is probably the simplest way of transferring assets at death while avoiding probate.

Advantages of Joint Ownership With Rights of Survivorship:

1. **Convenience.** At death, the survivor has immediate access to the jointly owned assets, such as a joint bank account.
2. **Protection Against Creditors.** Upon your death, jointly owned assets are not includable in your probate estate, and *may* be beyond the reach of your creditors.
3. **Probate Avoidance.** Any assets that are jointly owned with rights of survivorship do not have to go through probate.

Disadvantages of Joint Ownership With Rights of Survivorship:

1. **Risks.** The joint tenant has extensive powers over the jointly held assets and may withdraw or use the funds from a joint bank account or use other jointly held assets. It is very important that you have a stable relationship with and trust any joint owner.
2. **Planning for the Second Death.** The probate avoidance advantage of holding assets in joint tenancy does not apply on the death of the last joint tenant. Unless the last survivor makes other arrangements, those assets will be includable in the last survivor's probate estate.
3. **Disinherited Beneficiaries.** You may unintentionally disinherit the heirs of a joint owner. For example, if you hold a bank account jointly with your two children and one child predeceases you, the surviving child inherits the entire bank account at your death. The heirs of your deceased child do not inherit any proceeds of the bank account.
4. **Cumbersome.** Joint ownership can be extremely cumbersome if several joint owners are involved.
5. **Asset Division.** For married couples with assets over \$2,000,000, it is important to divide those assets in order to minimize estate taxes. Joint ownership between spouses prevents the division of assets between spouses, which is necessary in order to minimize, or possibly reduce, estate taxes.

6. **Creditors.** Property you own in joint tenancy may be subject to claims from the other joint owners' creditors, including the IRS.
7. **Taxes.** The transfer of property into joint tenancy may create unintentional income tax, estate tax and gift tax consequences. For example, bank accounts or brokerage accounts held jointly by husband, wife and child will not qualify for the marital deduction upon the first spouse's death.
8. **Divorce of Joint Owner.** Jointly held assets may be brought into the divorce proceedings of a joint owner.
9. **Disability of Joint Owner.** If a joint owner becomes disabled, court proceedings may be necessary for that joint owner to transfer his/her right in the jointly held property. (See Durable Powers of Attorney section of this brochure for a more detailed discussion.)
10. **Inflexibility.** If you own real property jointly, such as your home, you may not sell that real property without the other joint owner's signature. In some cases, you may not change the title to bank or brokerage accounts without the other joint owner's signature.

Declaration of Trust

In many cases when assets are titled jointly with children, a declaration of trust may be appropriate. This is a written agreement between the parent and the other joint owners which recites that the joint ownership is being established to avoid probate. It further recites that the property is to be used for the parent's needs and will be reconveyed to the parent at any time the parent directs. It designates the beneficiaries of those assets at the parent's death.

TRUSTS

Trusts in General

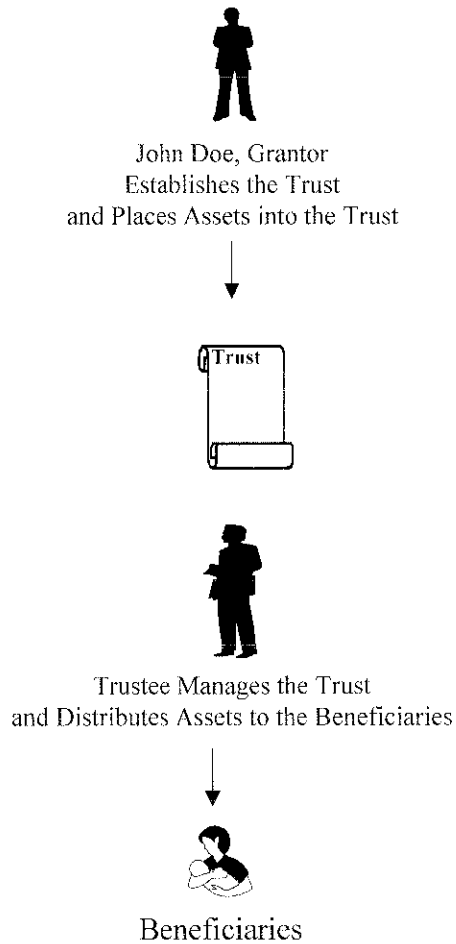
1. **Parties to a Trust.** A Trust is a legal relationship between the person establishing the Trust (the Grantor) and individuals and/or an institution to manage assets contributed to the Trust (the Trustee). Assets are managed for the benefit of individuals or charities (the Beneficiaries).
2. **Purposes of a Trust.** A Trust is often used to avoid probate, to save estate taxes, to provide assistance in managing assets, to provide for multiple or successor beneficiaries, or to achieve some combination of these objectives.
3. **Establishing a Trust.** In establishing a Trust, the Grantor has a great deal of flexibility. The Grantor may also be the Trustee and the Beneficiary. The Grantor selects:
 - (A) When the Trust will start.
 - (B) What property the Trust will receive.
 - (C) Who will benefit from the Trust.
 - (D) When distributions will be made.
 - (E) How long the Trust will last.
 - (F) Who will serve as Trustee.
 - (G) What restrictions, if any, will be placed on the Trustee.

Types of Trusts

There are two general types of trusts; those established at death (testamentary) and those established during lifetime (inter vivos).

1. **Testamentary Trusts (Trusts Contained in Wills).** Testamentary trusts are established within a Will and are most often used as a contingency in a Will. For example: Your Will provides that at your death, all assets pass to your spouse. However, if your spouse is not living, all assets will be held in trust for the benefit of your children until the children reach a certain age. Testamentary trusts do not avoid probate.
2. **Inter Vivos Trusts (Effective During Lifetime).** Inter Vivos trusts are established and effective during lifetime. Trusts have the capability of being changed (revocable or Living Trusts) or not being changed (irrevocable trusts).

YOUR REVOCABLE LIVING TRUST



- You (the Grantor) can be the Trustee.
- You (the Grantor) can be a beneficiary.
- You can amend or revoke the Trust.
- You can pick a successor Trustee.
- You can pick the date your beneficiaries will inherit.
- Assets transferred to the trust prior to your death are not subject to probate.
- Trust assets are subject to estate taxes.

LIVING TRUSTS

Revocable Inter Vivos Trusts, otherwise known as Revocable Living Trusts, are a versatile way to preserve and utilize your assets to benefit you and your family. It is a method for you to:

1. **Avoid Probate.** Avoid probate as to assets titled to your Trust during your lifetime and those in which the Trust is named as beneficiary. (Examples include life insurance and retirement plan benefits.) In addition, the Trust can serve as a method for the management and control of your assets in the event of your legal incapacity. If the title of the assets is in the trust, no guardianship or conservatorship proceeding need be instituted to deal with those assets.
2. **Retain Control.** Retain total control of the Trust by:
 - (A) Serving as trustee while you are not disabled.
 - (B) Naming the successor trustee to serve if you wish to resign, become disabled or die.
 - (C) Retaining all rights to principal and income.
 - (D) Reserving the right to amend or revoke the Trust.
3. **Select Your Beneficiaries.**
 - (A) Name the beneficiaries to receive trust assets at your death.
 - (B) Determine the method of distribution by selecting standards and ages for distribution.
4. **Help Married Couples With Assets Over \$5,000,000 To Reduce Estate Taxes.**

Through proper planning a husband and wife can pass \$10,000,000, (\$5,000,000 from the husband and \$5,000,000 from the wife) to their heirs exempt from federal and Michigan estate taxes. (For 2011 and 2012)
5. **Disadvantages to the Living Trust.**
 - (A) Many times it is necessary to sever joint ownership in order to properly fund both the husband's trust and the wife's trust. Severing joint ownership will deny the creditor protection that tenancy by the entities provides.
 - (B) Higher front end cost to establish a living trust than it is to have simple Wills prepared.
 - (C) Trusts are more complicated to establish than Wills. In addition, funding and maintaining trusts can require more efforts.

PLANNING FOR MARRIED COUPLES
 - each spouse utilizes his/her \$5,000,000 exemption -
 during 2011-2012
 - assume assets total \$10,000,000 -
 - assume husband dies first -

CASE 1- All To Spouse
 ALL ASSETS TO WIFE OR
 ASSETS JOINT WITH WIFE

**HUSBAND
DIES 1st**



\$5,000,000 to wife

**Owned by Wife
After Husbands Death**

\$ 5,000,000
5,000,000
 \$ 10,000,000
1,750,000
\$ 8,250,000

**WIFE
DIES 2nd**



\$5,000,000
 WIFE'S ESTATE
 WIFE'S ESTATE TAX
 TO CHILDREN

CASE 2- Preserve Exemption of First To Die
Using Family Trusts

HUSBAND TRANSFERS \$5,000,000 TO
 FAMILY TRUST AT HIS DEATH

**HUSBAND
DIES 1st**



HUSBAND'S FAMILY TRUST
 \$5,000,000
 HUSBAND'S ESTATE TAX
 TO CHILDREN AT WIFE'S DEATH

\$ 5,000,000
0
\$ 5,000,000
5,000,000
0
\$ 5,000,000

**WIFE
DIES 2nd**

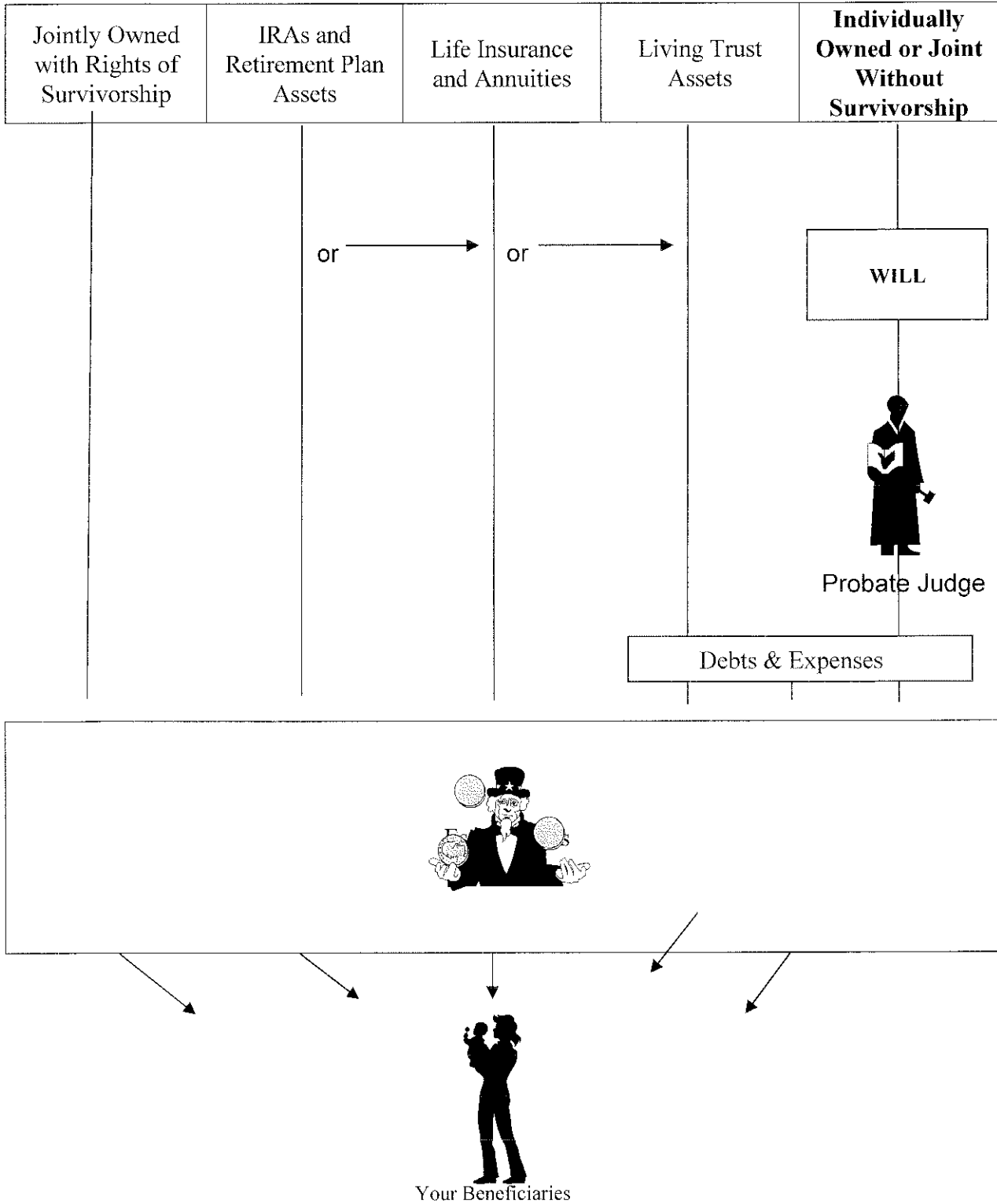


\$5,000,000
 WIFE'S ESTATE TAX
 TO CHILDREN

**TOTAL TO
CHILDREN
\$10,000,000**

Estate Tax Savings By Using Family Trust = **\$1,750,000**

PROBATE



A Will Does Not Avoid Probate.

CHOOSING YOUR PERSONAL REPRESENTATIVE AND TRUSTEE

The decision regarding who should act as your Personal Representative (executor) and Trustee is an extremely important segment of your estate plan.

Considerations

In choosing your Personal Representative and Trustee.

1. **Willing to Serve.** Make sure your Personal Representative and Trustee are willing to serve. Serving is not easy, and not everyone will want to accept the responsibility. The Personal Representative and the Trustee are entitled by law to a reasonable fee for services rendered.
2. **Select an Alternate.** Provide for an alternate Personal Representative or Trustee in case your primary Personal Representative or Trustee is unable or unwilling to perform.
3. **Avoid Conflicts of Interest.** Make sure your Personal Representative or Trustee does not have a conflict of interest. For example, a person who owns part of your business may have personal goals regarding the business which differ from your family.
4. **Confidence in Abilities.** Perhaps the most important consideration is to select an individual or entity with whom you have total confidence. You should explicitly trust your Personal Representative or Trustee to manage your assets and your financial affairs.

YOUR PERSONAL REPRESENTATIVES AND TRUSTEES Corporate vs. Individual	
Corporate	Individual
1. Specialist in handling estates/trusts.	1. May not have expertise required but may be more familiar with the family.
2. Impartial - usually free of interest with beneficiary.	2. Could have an emotional bias.
3. May have turnover of personnel.	3. Provides continuity.
4. Never moves, goes on vacation, gets sick, becomes disabled or dies.	4. Could have health problems or scheduling problems.
5. Charges a scheduled fee.	5. May serve without fee or at a lower fee.

FEDERAL ESTATE AND GIFT TAXATION

Under the federal unified estate and gift tax structure, tax is payable upon the transfer of property both during lifetime or at death. Even if your estate is not probated, it will be subject to federal and state estate taxes. This tax is payable if taxable lifetime transfers exceed \$5,000,000 and taxable death transfers (after reduction for lifetime transfers) exceed \$5,000,000.

1. **Calculation of Tax for 2011 and 2012.** After all deductions have been calculated, the rate schedule for the year 2011 and 2012 for **amounts transferred during lifetime and at death** is set out in the table below:

AMOUNTS TRANSFERRED DURING LIFETIME AND DEATH	
Cumulative Transfers	Rate on Excess
up to \$5,000,000	0%
over \$5,000,000	35%

Qualifying transfers to your spouse and charity are exempt from estate and gift taxes. The \$5,000,000 amount is set for 2011 and 2012 only.

2. **Estate Tax Exemption Amounts.**

Year	Exemption Amount	Top Rate
2004	\$1,500,000	48%
2005	\$1,500,000	47%
2006	\$2,000,000	46%
2007	\$2,000,000	45%
2008	\$2,000,000	45%
2009	\$3,500,000	45%
2010	No Estate Tax	
2011	\$5,000,000	35%
2012	\$5,000,000	35%

3. **The Income Tax Step Up In Basis.** Assets subject to estate taxes receive an income tax basis to your heirs equal to that asset's value at your death. (This rule does not apply to annuities, retirement plan benefits, and installment contracts.) Often this stepped-up basis will save income taxes for the heirs.

4. **Reducing Estate Taxes Through Gifting.** Gifts can be an effective estate planning tool. They provide an opportunity to transfer assets to family members, to save income and death taxes, and to reduce probate costs upon your death.

(A) **Annual \$13,000 Exclusion.** Each individual is entitled to gift to another individual \$13,000 per year, plus tuition costs and medical expenses, without federal estate or gift tax consequences (husband and wife can give \$26,000).

(B) **Appreciation on Gifted Assets.** All future appreciation on gifted assets is also removed from your estate. The following charts demonstrate the additional estate tax savings available by removing the appreciation on assets from your estate following a one time gift of \$13,000 and through a gifting program of \$13,000 per year.

Examples: Assume a gift of \$13,000 is invested at 7% annual after-tax return. The donor is in the 35% estate tax bracket.

GIFTS						
A One Time \$13,000 Gift			A Series of \$13,000 Gifts			
Year	Value of Property	Estate Tax Savings		Gifts	Value of Property	Estate Tax Savings
1	\$13,000	\$ 4,550		\$ 13,000	\$ 13,000	\$ 4,550
5	\$17,040	\$ 5,964		\$ 65,000	\$ 74,759	\$ 26,165
10	\$23,899	\$ 8,364		\$130,000	\$179,613	\$ 62,864
15	\$33,520	\$ 11,732		\$195,000	\$326,677	\$114,337
20	\$47,014	\$ 16,455		\$260,000	\$532,941	\$186,529

(C) **Early Gifting.** To maximize estate tax savings, gifting should be started early and spread over a number of years, rather than delayed until death is eminent. The prime assets for gifting are those most likely to produce the greatest yield through appreciation and income. However, income tax considerations in the event of sale should also be considered. Another reason to start gifting early is a possibility of future changes in the law which might restrict the ability to reduce estate taxes through gifting.

MICHIGAN ESTATE TAX

Elimination of the Estate Tax

At this time, Michigan has eliminated the Michigan estate tax.



LIFE INSURANCE & RETIREMENT PLAN BENEFITS

Life Insurance

Life insurance can be an important part of your estate plan. It is often used to provide liquid assets to pay debts and taxes upon death, plus it creates funds to support the insured's family.

1. **Coordinate the Beneficiary with your Estate Plan.** It is essential that the beneficiary named for your life insurance is in accordance with your estate plan. It is disadvantageous to make the policy payable to your estate, which will subject the policy proceeds to probate costs.

2. **Ownership By Another Individual or Irrevocable Life Insurance Trust.** In most cases, life insurance is not exempt from federal estate taxes. In larger estates, serious consideration should be given to ownership in a life insurance policy held by someone other than the insured. Estate tax savings can be dramatic (i.e. 50% or more) by having another individual own policies or by using an irrevocable life insurance trust to own policies.

Example:

Mom is single and has a \$5,500,000 estate. She buys \$500,000 in life insurance to pay estate taxes.

	<u>Taxable</u> <u>Estate</u>	<u>Estate</u> <u>Taxes</u>
With Life Insurance	\$6,000,000	\$350,000
Without Life Insurance	\$5,500,000	\$175,000
Difference	<u>\$ 500,000</u>	<u>\$175,000</u>

Was the life insurance sufficient to pay estate taxes?

Life Insurance	\$500,000
Less additional taxes	<u>\$175,000</u>
Available to pay taxes	<u>\$325,000</u>

Remember: Life insurance must be gifted more than 3 years before death to avoid estate taxes.

Qualified Retirement Plan Benefits.

Qualified retirement benefits require special attention in selecting:

1. **A Distribution Schedule During Your Lifetime.** Retirement plan benefits are subject to:
 - (A) Income tax when received.
 - (B) A 10% excise tax if they are received before age 59 ½ (some exceptions exist)

2. **A Beneficiary Upon Your Death.** Retirement plan benefits inherited by a beneficiary are subject to:
 - (A) Income taxes when received
 - (B) Estate taxes at death

The result is that in some cases retirement plan benefits held at death can be subject to federal and state taxes of 70% or more. Planning for retirement plan benefits requires special attention. Consideration might be given to utilizing benefits during you and your spouse's lifetime or leaving benefits to charity.

Inheriting Retirement Plan Assets

Retirement plan assets including IRAs, 401(k)s and the like are subject to severe tax costs in certain cases.

Planning the transfer of these assets is extremely complex. Individuals with large retirement plan balances should carefully consider who is selected as the primary and contingent beneficiaries to ensure the distribution schedule and payout options meet your expectations.

See our examples below of different beneficiary scenarios:

1. **Balances to Surviving Spouse.** Having your spouse as the primary beneficiary allows for the greatest flexibility:
 - No estate tax liability (estate taxes due at 2nd death);
 - Spouse can rollover balance into spouse's IRA; and
 - Income taxes due only upon distributions from IRA
 - Opportunity for redesignation of beneficiaries
 - Spouse can disclaim all or a portion so as to be able to allocate the assets for maximum tax benefits.

2. Balances to Children or Other Family Members (when families are in high income and estate tax brackets).

	To Children/Family
Transfer*	\$100,000
Less: Estate Taxes (35%)	(\$35,000)
Less: Income Taxes to Children/Family	(\$22,000)
After Taxes	\$43,000

*Assumptions: \$100,000 IRA balance in parent's estate with estate tax rate of 35%; children are in highest income tax bracket (36% Federal and State income taxes).

3. Balances to Charity.

There are special rules that apply when leaving IRA balances to charity. It is best to check with a professional prior to naming the charity as the beneficiary.

	To Charity
Transfer	\$100,000
Less: Estate Taxes	0
Less: Income Taxes	0
After Taxes	\$100,000

ESTATE PLANNING IS . . .

Planning for Lifetime Needs and Emergencies

