



Estate Planning for Clients With No Taxable Estates

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Wills

With no will, state statutes determine who inherits the deceased's remaining assets. A will provides for the designation of a guardian, a will chooses an executor, and it leaves assets in a trust. A will can also leave bequests to charities, a will simplifies the probate process, and will can direct how taxes will be paid.

Leaving Funds to Children

Under state laws children cannot own financial assets until they reach majority, usually on their 18th birthday. A will can put a structure in place designating how and when income and assets will be paid to children. A separate trust should be established for each child. An example distribution plan can be that at age 21, the children will start getting annual distributions equivalent to the trust income. Upon reaching their 25th birthdays, they will each receive 1/3 of the total accumulated funds set aside for that child. The full income on the remaining funds will accumulate and be added to the undistributed principal. At age 30, half of the remaining funds will be distributed and the full remaining amount will be distributed at age 35.

Life Insurance

A person with no taxable estate could end up with a taxable estate if his or her life insurance is inappropriately owned. A policy owned by the decedent will be included in his or her estate. A policy owned by the decedent or the spouse will be included in the estate if there is a simultaneous death. A policy owned by the decedent with a former spouse or children as the beneficiaries will be included in the estate. Setting up an irrevocable life insurance trust (ILIT) is simple, relatively inexpensive, and a very effective first step to becoming acclimated to estate planning.

Income in Respect of a Decedent (IRD)

Individual retirement accounts (IRAs), pensions, annuities, U.S. savings bond interest, unpaid salaries, and commissions are IRD items. Capital gains are not IRD income. IRD is subject to

income tax by the recipient. If a client wants to leave equal inheritance, then it should be made up of the same types of assets. Leaving \$100,000 of stocks and bonds to one child and \$100,000 of an IRA to another is not an equal inheritance.

Living Trusts

An alternative to a will, a will substitute, is a living trust. A living trust can ease probate in many states. In New Jersey, this is not too beneficial; however, living trusts can be very important in Florida and some counties in New York.

Family Asset Protection Trusts

Assets left outright to a beneficiary will become part of his or her asset pool in the event of a lawsuit or marital separation. Assets left in a trust with all the income to the beneficiary and liberal rights of invasion by the trustee for the favor of the beneficiary and/or his or her children could protect the assets and keep them in the family. The trust might also save estate taxes when the income beneficiary dies. The assets placed in the trust would have been subject to estate taxes and would not be subjected to additional taxes when the primary income beneficiary dies.

Choosing a Guardian for Your Children

Without a will, litigation decides the guardian and what payments or reimbursements they get, the trustee who manages the money eventually passing to children, and when the distributions will be made. A will can put a structure in place designating how and when income and assets will be paid to the guardian.

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