Estate Planning Basics

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CANDOR ASSET ADVISORS

What is estate planning?

- Estate Planning is about the accumulation, conservation and transfer of wealth considering legal, tax and personal objectives

Basic estate documents

- Wills
  - A document that expresses the person who dies wishes for property distribution at death. The document allows you to avoid state intestacy (without a will) laws.
  - A court overseas the process.
  - An executor/administrator is task with ensuring the assets and liabilities are accounted for distributed. An executor's power is enforceable once they are officially appointed by the court.
- Letters of Instruction
- Financial Power of Attorney
- Medical Power of Attorney
- Power of Attorney notes
  - POAs are only enforceable while the person is still living.
  - POAs can be general (manage and full transfer powers) or limited (manages certain things for you and the role is specific).
  - POAs can also have springing (e.g., a qualifying event must occur before power is conveyed) or effective now provisions.
  - Institutions may or may not accept them. It is best practice to consult each institution beforehand to ensure they will accept them.
- Advanced Medical Directives
- Do not Resuscitate Orders

General approaches to transferring assets

- Will based approach
- Trusts
- Without proper estate documents – rely on state, federal and financial industry transfer on death laws
- Other transfer methods are often used in conjunction with the above
  - Transfer on death/payable on death
    - Note, IRAs and 401ks are only in individual names
  - Transfer on death dead
  - Account titling
  - Beneficiary designations

Ways to transfer assets

- Transfer on death/payable on death – often used for financial accounts
- Transfer on death deed – used for real estate
- Beneficiary designation for a motor vehicle – Contact your local department of motor vehicles for the form.
- Ownership Type and Titling – See different account types
- Will and probate process
- State Trust Law
- Contract – Life insurance death benefits are paid out this way
- State Intestacy Laws- When someone dies without a will

Account Types

	Sole Ownership	Tenants in Common	Joint Tenants With Rights of Survivorship	Tenants by the Entirety	Community Property (Texas Assumed Property Type)	What it means
Number of Owners	1	2 or more	2 or more	2; spouses only	2; spouses only	
Automatic survivorship	No	No	In TEXAS: Yes with survivorship agreement in place. No Without Survivorship Agreement in place Will, Trust or Intestacy apply instead; Consult Attorney	In TEXAS: Yes with survivorship agreement in place. No Without Survivorship Agreement in place Will, Trust or Intestacy apply instead; Consult Attorney	No. Will, Trust or Intesacy transfer applies	At death do ownership interests automatically go to the other owners
Included in Probate	Yes 100%	Yes; Deceased ownership contribution % x fair market value at death	In TEXAS: If Survivorship Agreement in place then no, if not included in probate	In TEXAS: If Survivorship Agreement in place then no, if not included in probate	50%	Is title transferred via probate (AKA legal process) or transferred via other means?
Included in Deceased's Gross Estate	Yes 100%	Yes; Deceased ownership contribution % x fair market value at death	Yes; Deceased ownership contribution % x fair market value at death	Yes 50% of Fair Market Value at Death	50%	What Is the gross estate value of the decedent? The value effects if estate tax is owed?
Qualified for Marital Deduction	If spouse	If spouse	If spouse	Yes	If spouse	A spouse is able to receive an unlimited amount of property without estate tax implications
Partitionable Involuntarily	N/A as there is only one owner	Yes	Yes	No	No	Can the asset be separated without the survivor's consent?
Step up to Fair Market Value at Death	Yes	Fair Market Value x Deceased Owner Contribution %	Fair Market Value x Deceased Owner Contribution %	Fair Market Value x Deceased Owner Contribution %	100%	What is the cost basis at death? The cost basis is used to determine gain on sale.
Actual Contribution Rates	N/A as there is only one owner	Yes	Yes except spouse	No	No	Used to determine beneficiares' cost basis
Deemed Contribution Rule	N/A as there is only one owner	No	Yes if spouse	Yes	Yes	Used to determine beneficiares' cost basis
Background	Once the sole owner dies the assets are transferred via probate	Each owner's ownership stake is in proportion to how much they contributed	When one owner dies the other owners can automatically receive decedent's stake if appropriate paperwork is filled out	When one owner dies the other owner can automatically receive decedent's stake if appropriate paperwork is filled out	The default ownership type for married couples in Texas unless otherwise specified.	

Note: Estate laws can vary so contact your local estate attorney on estate rules in your given state

What is probate?

- A legal process through which assets that don't change title another way are transferred. It is a legal proceeding that proves the validity of the will or lack thereof, supervises the orderly distribution of a decedent's assets to heirs, assures heirs receive clear title and protects creditors by ensuring that valid debts of the estate are paid prior to the distribution of assets to heirs.

Probate

Advantages

- Implements objectives of testator regarding disposition of assets
- Provides for orderly administration of assets through a legal process
- Provides clear title to heirs or legatees by court order
- Increases the chances that interested parties have notice of the proceedings and right to be heard
- Protects creditors by ensuring that debts of the decedent are paid

Disadvantages

- Delays with attorneys and courts
- Costs and time
- Publicity as proceedings are open to the public

How can you avoid probate?

- Transfer assets via
  - Transfer on death/payable on death forms filled out in advance with financial institutions
  - Executing a transfer on death deed for real estate
  - Completing a beneficiary for motor vehicle form
  - Account type- certain account types automatically convey to the remaining account holders. See account types slide.
  - Contract – filling out beneficiary forms (e.g., life insurance)
  - Having the assets in trust accounts

What is a trust?

- A structure that vests legal title of assets in one party, the trustee, who manages the assets for the benefit of beneficiaries of the trust

Trusts

Advantages

- Most types avoid probate and publicity
- With irrevocable grants offers credit protection that is helpful in instances of legal or financial troubles
- Offers potential estate tax savings if you are running into estate size issues ($13.61 million for individuals, $27.22 million for couples, Source: New York Life)
- Allows for greater management/control of assets beyond the grave that can be helpful for individuals that aren't capable of managing assets themselves
- Allows for split interest in a property. This can be helpful if beneficiaries have different wishes (e.g., income streams, residual interests)

Disadvantages

- Can be expensive
- Can be cumbersome

4 main categories of trusts

- Living – created when the grantor is alive
  - + Avoids probate, maintains privacy, allows planning for incapacity, grantors can have greater control of asset distribution
  - - Can be costly, funding and maintenance requirements
- Testamentary trust- created within a last will and testament and only takes effect upon the grantor's death
  - + Allows for controlled distribution of assets to beneficiaries
  - - Requires the will to go through probate, which can be a lengthy and costly and it is a public process
- Revocable trust – can be altered, modified or terminated by the grantor during their lifetime as long as they are mentally competent
  - + Avoids probate, provides flexibility for changes, maintains privacy
  - - Assets are still considered part of the grantor's taxable estate and are not protected from creditors or lawsuits during the grantor's lifetime
- Irrevocable trust – once established, generally can't be changed or revoked without the beneficiaries' consent and potentially court approval
  - + Removes assets from grantor's taxable estate and may potentially reduce taxes. Offers strong asset protection from creditors and lawsuits
  - - Grantor gives up control over the assets once they are placed in the trust. These trusts can be complex and expensive to set up and manage.

Common types of trusts

- AB trust or martial trust- is a joint trust for married couples used to maximize estate tax exemptions. Upon the death of the first spouse, the trust splits into two:
  - “A” trust for the surviving spouse
  - “B” trust containing assets up to the estate tax exemption and will pass to heirs
- Asset protection trust- is an irrevocable trust designed to protect your assets on behalf of beneficiaries from claims by future creditors or lawsuits. The separation of ownership and control protects the assets from grantor creditor claims.
- Blind trust- a financial arrangement where the owner transfers control of assets to independent trustees to manage on their behalf. The owner has no knowledge or influence on how the assets are invested, avoiding potential conflicts of interest.
- Charitable trust- allows individuals to support charitable organizations while potentially benefitting from tax advantages. Two types are common: Charitable remainder trusts (CRTs) and charitable lead trusts (CLTs)
  - CRTs provide an income stream to the donor or beneficiaries for a specific term with the remaining assets going to charity.
  - CLTs provide income to the charity first with the remaining assets going to non-charitable beneficiaries.
- Discretionary trust – an estate planning tool that gives trustees the power to decide how and when to distribute the trust assets and income to beneficiaries. Beneficiaries do not have a guaranteed right to trust assets.
- Generation skipping trusts – designed to transfer assets to a beneficiary who is two or more generations younger than the grantor. This trust is subject to a generation skipping transfer tax with certain exemptions.
- Grantor Retained Annuity Trusts (GRAT)- are an irrevocable trust set up for a period of time to minimize taxes on large financial gifts to family members or other beneficiaries. The grantor pays the taxes on assets when the trust is established and receives an annual annuity payment for the GRAT term. When the established term ends, the beneficiaries receive the remaining assets.

Common types of trusts continued

- Land trust- allows the transfer ownership to a legal entity that holds the land for the benefit of beneficiaries. Land trusts can provide anonymity, protect land from development, provide for future generations, avoid probate and protect assets from creditors and lawsuits.
- Life insurance trust- An irrevocable life insurance trust (ILIT) designed to hold and manage a life insurance policy and to keep the policy proceeds outside of the insured's taxable estate. ILITs can provide estate tax benefits, protect proceeds from creditors and offer more control on how the funds are utilized for beneficiaries.
- Qualified Personal Residence Trust (QPRT)- an irrevocable trust that transfers the residence's title to the trust while the homeowner is allowed to live and pay for upkeep of the home for a specified term. When the QPRT term ends, the home is transferred to the beneficiaries without going through probate.
- Qualified Terminable Interest Property Trust (QTIP) – established to provide income for a surviving spouse and for the grantor to control assets after the death of the spouse. QTIPs may be useful when beneficiaries exist from a previous marriage and the grantor dies before the subsequent spouse.
- Special needs trust – designed to provide for the financial needs of individuals with disabilities without jeopardizing their eligibility to receive government benefits
- Spendthrift trust- designed to protect the assets of a trust from beneficiaries' creditors and restrict the beneficiaries' access to trust principal

For more information

- Check out our website at:

www.candorassetadvisors.com

- We discuss where we see opportunities in stocks, fixed income and other asset classes in our investment strategy commentaries
- Sign up to receive our insights by emailing us at:
  - info@candorassetadvisors.com
- To schedule a conversation, use the following link:
  - https://calendly.com/bhawes-1/brief_conversation

William E. Hawes, CFA, CFP®
President and Chief Investment Officer

With over 24 years of industry experience, Bill brings a wealth of knowledge in investment management and financial planning. Prior to earning his MBA, Bill worked in mortgage banking and insurance, and the insights gained provided him with a broader perspective of the financial issues facing clients.

Bill has been a Chartered Financial Analyst since 2000 and is a Certified Financial Planner. Bill also enjoys golf, travel, studying history, watching his favorite sports teams, and spending time with family.

Before founding Candor Asset Advisors™, Bill co-created and managed Century Management's Large Cap Absolute Value and Large Cap Value strategies. Bill also analyzed companies in a variety of industries for the firm's all-cap value strategy.

Prior to moving back to Texas, Bill served as an equity analyst for Engemann Asset Management in Southern California. He co-managed a mid-cap growth fund and served as a multi-sector analyst for the mid-cap and large-cap growth teams.

After graduate school, Bill served as co-portfolio manager and equity analyst at Franklin Templeton. While there he served as portfolio manager on All Cap, Large Cap Core, and Consumer Sector portfolios. Notable institutional clients included CalPers, Mitsui Trust, Norges Bank, and Penn Mutual. He also spent considerable time analyzing auto, transportation, and consumer stocks.

Bill earned his Master in Business Administration from the University of Southern California. While there he also served on USC's MBA student investment fund.

Between his graduate and undergraduate studies, Bill worked at North American Mortgage Company in California as a management trainee and later as a financial analyst and marketing coordinator. The experience gave him a better understanding of the mortgage and real estate markets which he leverages to this day.

Bill earned his Bachelor of Business Administration from the University of Texas at Austin. While a student, he also served as a special agent for Northwestern Mutual. The experience gave him an understanding of life and disability insurance and the work ethic, tools, and temperament needed to grow a financial services practice.

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Disclosures

- Information obtained from the University of Texas Certified Financial Planning (CFP®) Estate Planning education course, Dalton CFP® education classes, Certified Financial Planning Program and Google AI mode searches unless otherwise noted.
- For advice on your estate plan and/or documents contact an estate attorney.
- Estate laws can vary from state to state so contact individuals who know your local estate laws for specific advice.
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