

Estate Planning Basics

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It has been said that one's good hopes, desires and intentions cannot be automatically translated into works. Each of us must do that by ourselves. We need to be anxiously engaged in a positive program of preparation.

You can't take it with you, but you CAN leave word as to how you wish your legacy to be used or, you can take ACTIONS now that set in place agents & entities who will carry out your wishes and be a steward over your legacy & loved ones.

Leaving “word” (wills)

Everyone has a will, whether they know it or not. If you haven't written and executed your own will, you will die *intestate*, which means that the State of Utah will decide how to divide your estate and who gets what. Writing your own will ensures that your wishes and directives, and not the State's, dictate how your estate will be divided.

Taking actions

Upon death, your estate is *probated* unless there is nothing left in your name to probate. Probate and administrative fees can eat up 5 to 10 percent of one's estate. Avoiding probate and the costs thereof can be accomplished through a *trust* arrangement. For example, the cash value of any life insurance you are paying for now, will be included in your estate upon your death.

Transferring your life insurance into a trust can avoid having its cash value declared as part of your estate. *Living trusts* can be established to avoid probate by transferring the property before the death of the individual, resulting in little or no estate to probate. Another advantage of trust arrangements is the fact that while wills are public documents, trust arrangements are not, allowing you to keep your final wishes/directives private.

Agents and Entities-Major Benefits of a Trust

- Gives you full control of your assets while you are alive and competent.
- Avoids probate costs by reducing size of probatable estate.
- Permits assets to be distributed quickly upon your death.
- Keeps the details of your estate private.
- Arranges for a successor trustee to manage your assets should you become incapacitated.
- Is difficult to contest.
- Effectively doubles the standard estate deduction for married couples.

Living trusts are often set up to further aid in avoiding probate. They help you avoid the cost of probate court proceedings and lets everything go directly to your heirs after your death without taking the probate court “detour.”

While you are alive, the trust has no effect, and you can revoke it or change its terms at any time. You and your spouse can be made co-trustees of the trust. But upon your death, trust property can be transferred quickly and according to the directions you left in the trust document. If your estate is large enough, an A-B trust may be very helpful in maximizing your estate tax deduction and avoiding any estate taxes.

Your Estate legacy

Estate planning is not about death—it is about love. Every estate plan should be professionally reviewed regularly--whenever there has been a significant change in your family circumstances, such as the birth of a child, when children become adults, upon death or disability of a spouse or beneficiary, and whenever significant assets or interests are acquired or disposed.

Wills checklist (Some things most people fail to include in planning their estate legacy)

Who should be notified about your death and funeral?

Do you want a funeral or a memorial ceremony? If so, what type?

Do you want people to send flowers, or would you prefer donations to charity?

Did you prepare a will or a living trust? Where are the originals of either of these documents?

Did you own a life insurance policy, pension/retirement account, or annuity?

Where are the documents stored?

Where did you have bank accounts? Did you have a safe deposit box? [note: most banks freeze access to safe deposits upon learning that the owner of the box has died. DO NOT store your original will in a safe deposit box you control]

Did you have stocks, bonds, or money in mutual funds? Where are the records?

Did you own real estate? Where are the deeds?

Resources:

Steven J. Dixon, "Planning Ahead: The Importance of Wills and Trusts," *Ensign*, June 1983, 28

"Preparing for Emergencies," *Ensign*, Dec. 1990, 59

Franklin D. Richards, "Personal and Family Financial Preparedness," *Ensign*, May 1979, 38

"Questions about Coping Financially: Welfare Services Suggests Some Answers," *Ensign*, June 1980, 12

Top ten reasons to plan your estate legacy

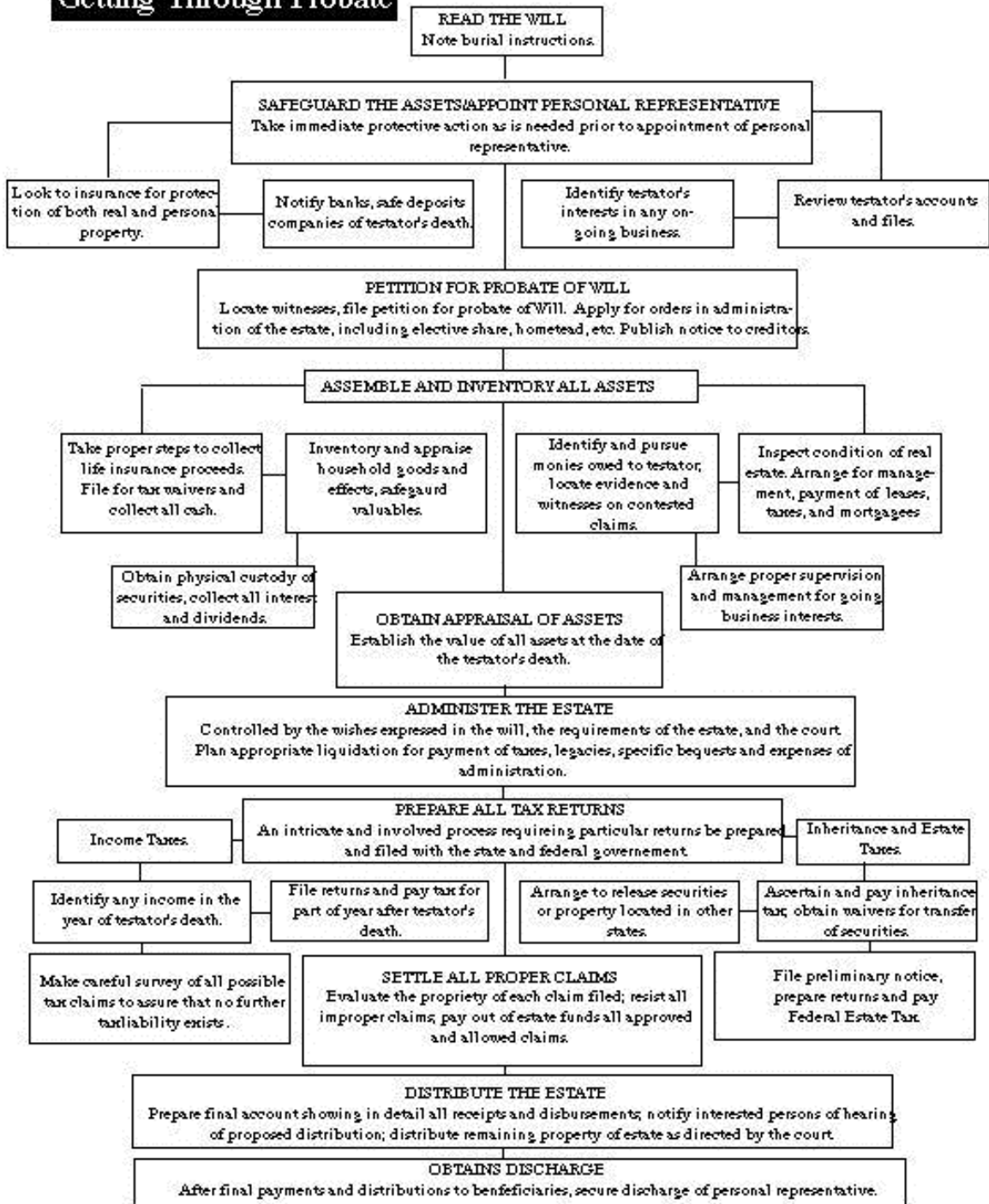
10. Makes sure it goes to whom you want, when you want, the way you want
9. Allows you to give back to the people and places that have helped you.
8. Shows your family that you cared enough to plan for them.
7. Saves you heirs legal fees, taxes and time in settling your affairs.
6. Protects your assets from being eaten up by nursing home costs.
5. Allows you to continue your IRAs for generations.
4. Allows you to protect the inheritance from children's divorces and/or lawsuits.
3. Makes sure your estate will pass by blood instead of by marriage.
2. Guarantees you will be protected if you become disabled.
1. It gives you peace of mind in which to enjoy your life.

Conclusion

1. Avoid intestacy—Execute a Will
2. If you wish to avoid probate, create a living trust or trusts to handle property and assets.
3. If your life insurance has a substantial cash value, set up an irrevocable life insurance trust (ILIT) to avoid your estate being taxed.
4. Consult a professional to determine exactly which trusts to consider creating.

It has been said that the only sure things are death & taxes --but taxes can and DO outlive you. Make positive preparations to plan your estate legacy so that you and your loved ones shall not fear. [D&C 38:30]

Getting Through Probate



This is a simplified flowchart of the probate process. Creating a trust arrangement could substantially reduce the costs and time involved in probating an estate.