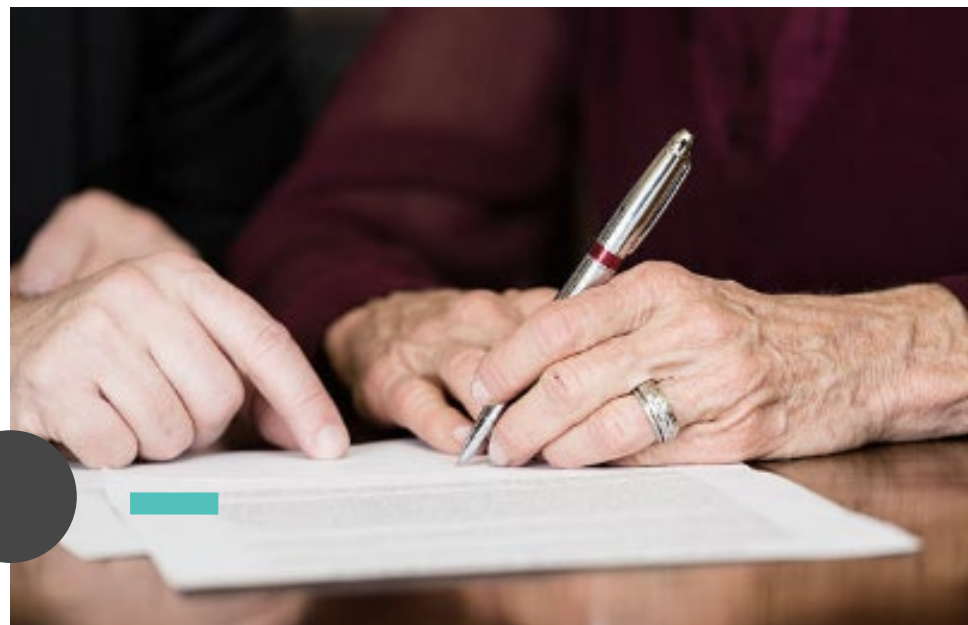


Estate Planning Essentials: Are You Prepared?



Panelists:

Antonia Pancel-Cipric, Chief Fiduciary Officer, Beacon Trust

Raymond J. Kowalik, Tax Manager, Beacon Trust

Angela Titus McEwan, Partner, Day Pitney LLP

Anne Shearman, Realtor, Compass

Attitudes Toward End of Life Planning

- How many in the audience have an estate plan?
- What motivated you to get a Will or POA?
 - Children
 - Buying a home or investments
 - Health issues
 - Second Marriage
 - Leaving a Legacy or Philanthropy
- How many in the audience are without a plan?

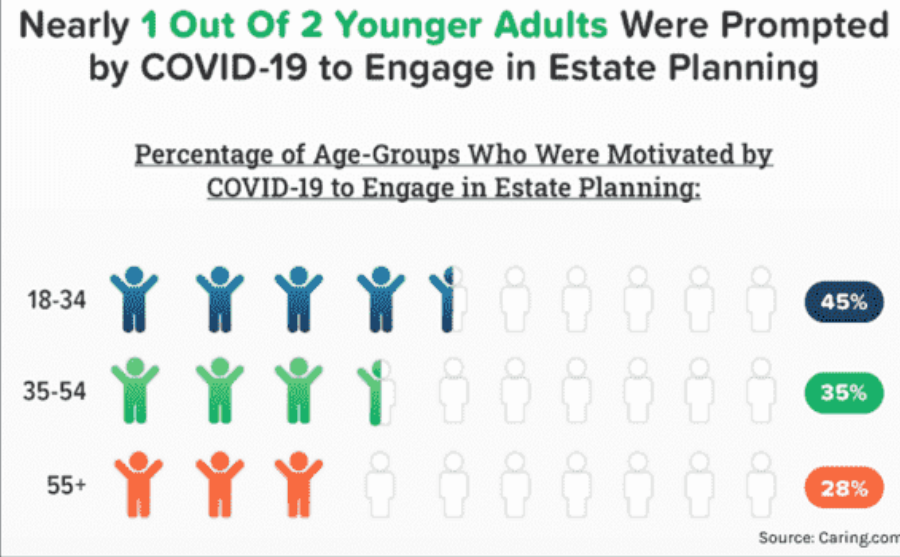
Who Has Died Intestate?

- Michael Jackson
- Aretha Franklin
- Abraham Lincoln
- Prince
- Kurt Cobain
- Martin Luther King
- Heath Ledger
- Howard Hughes
- Pablo Picasso
- Billie Holiday
- John Denver
- Sonny Bono
- Carrie Fisher



Millennials and Estate Planning

- 1 in 3 Americans who have no will or living trust claim they don't have enough assets to leave behind.
- Americans who have had a serious case of COVID-19 are 66% more likely to have a will than those who have not.
- Since the beginning of the pandemic, the number of 18-34 year-olds with estate planning documents has increased by 50%.
- According a New York Times survey, nearly 9 out of 10 U.S. adults are concerned about inflation. This fear of inflation plays a critical role in how people perceive their own finances, causing them to believe their savings are worth much less. This often leads to people postponing or even abandoning the idea of estate planning.



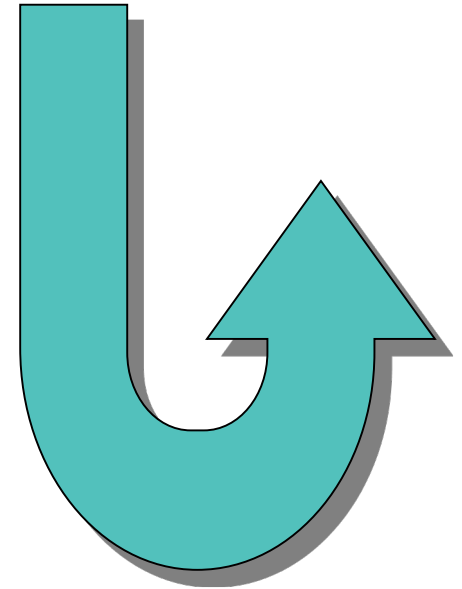
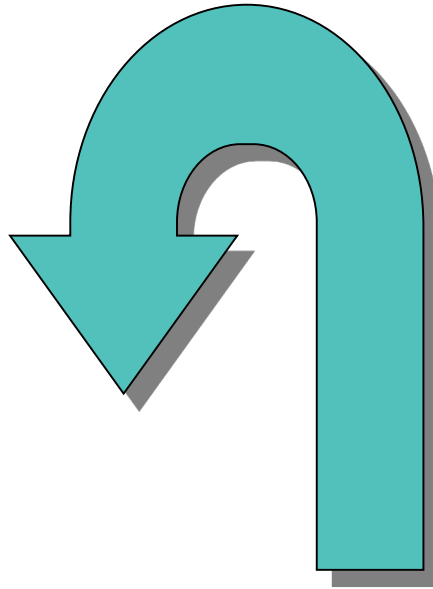
Planning Puts YOU in Control

- YOU
Determine Disposition of Assets
- YOU
Select Fiduciaries
- YOU
Handle Special Situations
- YOU
Reduce Taxes and Expenses
- YOU
Establish Creditor Protection
- YOU
Make Your Wishes Legally Binding

With A Plan – You
Control the
Disposition of Your
Hard-Earned Money



No Plan – Your
Assets May Not
Pass As You
Intended



No Plan = Intestacy

- The Intestacy Laws will cause a portion of the estate to pass outright to your spouse or to your children
- The state will select guardians of your children and their assets
- Children/grandchildren will receive estate at age 18
- The state will select the closest relatives to manage your estate
- The state will require a bond for the Administrator and Guardian to be paid from your estate each year
- Your heirs may pay unnecessary taxes and expenses
- Distribution may be delayed

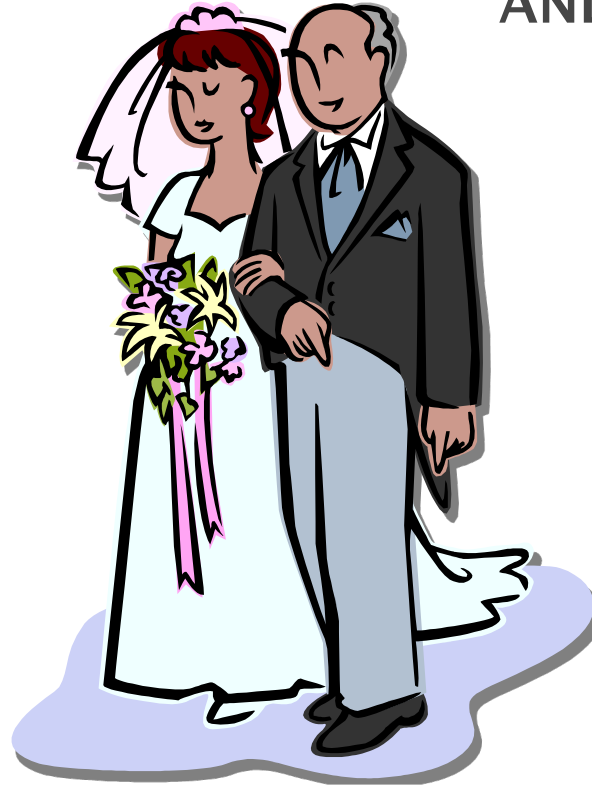
With A Plan – You Handle Special Situations

- Second Marriages
- Spendthrift Beneficiaries
- Divorce
- Daughters/Sons In-Law
- Disabled Beneficiaries
- Who are Descendants
- Special Assets (family business)
- Your incapacity



With A Plan – You Can Properly Title Your Assets

**YOURS, MINE,
AND OURS**



Know How Assets Are Titled and Who Your Beneficiaries Are

- Your name
- Spouse's name
- Joint
- Joint tenants with right of survivorship (JTWROS), tenants in common (TIC)
- Beneficiaries on retirement accounts, insurance policies and annuities
- Transfer on death (TOD), payable on death (POD), in trust for (ITF)
- In a Trust?

Title Determines Disposition

 Individual Name



WILL

 Jointly Titled



JOINT OWNER

 Beneficiary Designation



BENEFICIARY

With A Plan – You Select Your Fiduciaries

- Executor
- Trustee
- Guardian
- Attorney in fact
- Health Care Representative



No Plan – The State
Decides Who Will
Manage Your Assets
And Who Will Help
You If You Become
Incapacitated





With A Plan – You Reduce Taxes And Expenses

“The only difference between death and taxes is that death doesn’t get worse every time Congress meets.”

— Will Rogers

Tax Planning

- An essential component for high net worth individuals
- Affects planning during lifetime and at death
- Using exemptions, deductions, and planning techniques can significantly reduce taxes and preserve estate for future generations



Which Assets Are Taxed At Death?

- Money Market Funds
- CDs
- Bonds
- Preferred Stocks
- Mutual Funds
- Annuities
- Interests in Trusts
- Life Insurance – face proceeds
- Retirement Accounts / IRAs
- Real Estate
- Closely Held Business
- Digital Assets
- Crypto
- Other Property



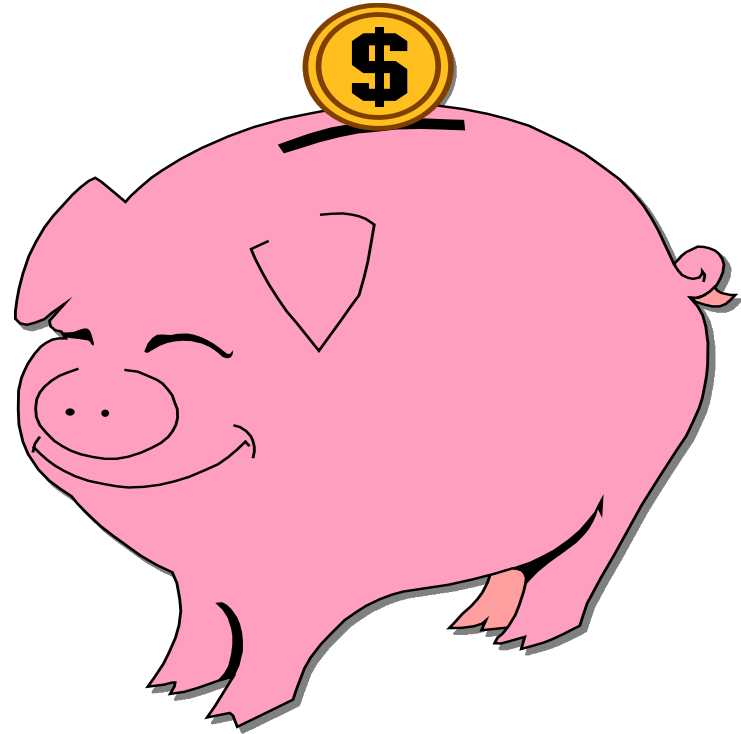
Death Taxes

- Federal estate, gift and generation-skipping transfer tax
- State estate tax
- State inheritance tax
- Income tax on income in respect of a decedent (IRD) (retirement plans, for example)



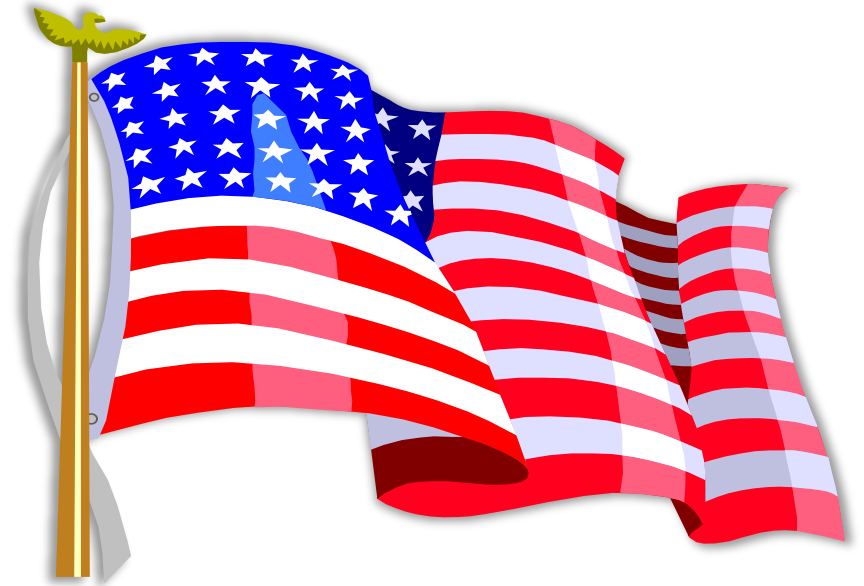
Major Tax Exemptions

- Marital Deduction
- Exemption Amount
- Gift Tax Annual Exclusion
- Lifetime Giving
- Leveraging Techniques
- Irrevocable Life Insurance Trusts
- Charitable Gifts



No Plan – The Government May Get More

- Your heirs pay more taxes
- Your surviving spouse may need to reduce the lifestyle
- Assets may need to be sold to pay taxes and expenses

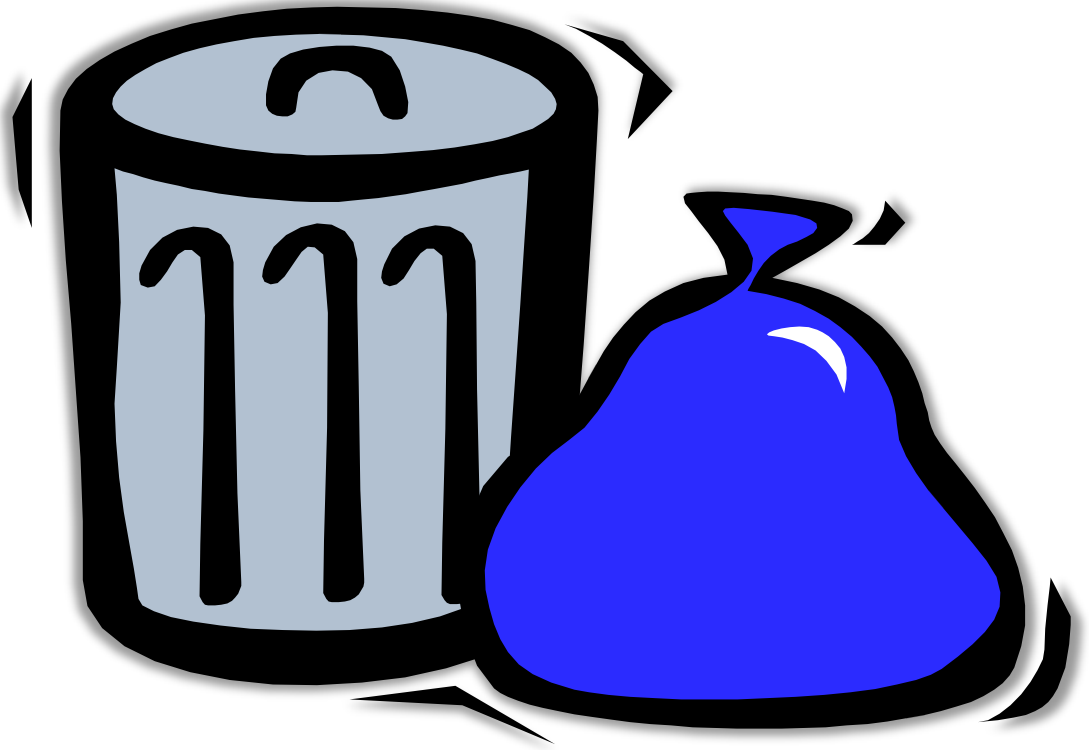


Creditor Protection

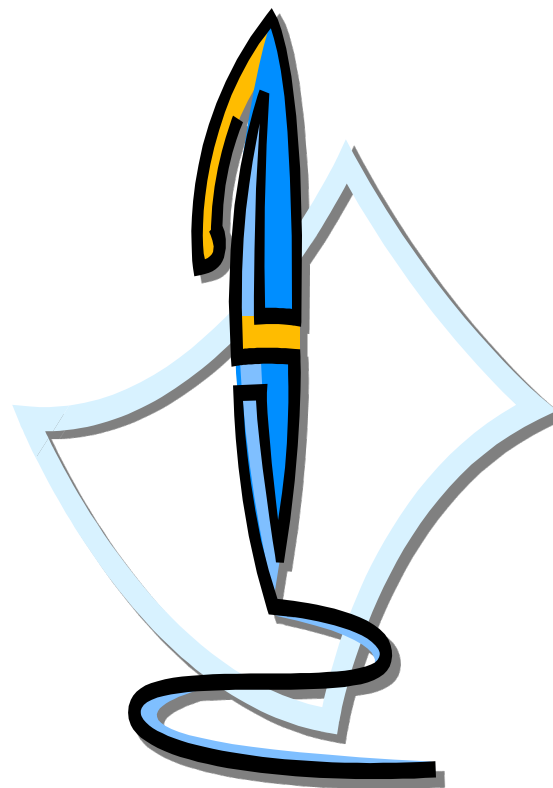
- Protects assets from creditors of beneficiaries
- Creditors could include ex-spouses



No Plan – Your Assets May be Wasted

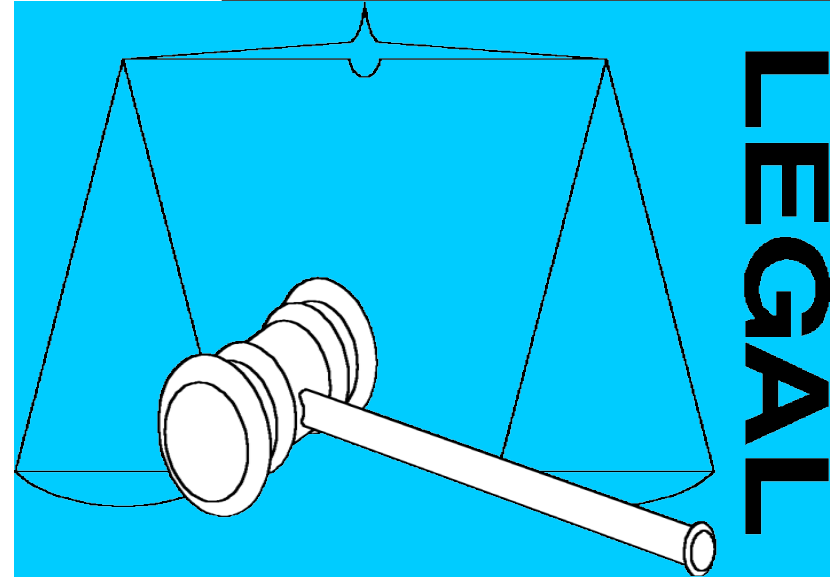


With A Plan – Your Wishes Are Put In Writing



Documents

- Will
- Trusts
- Power of Attorney
- Advance Directive
- Living Will
- Health Care Proxy



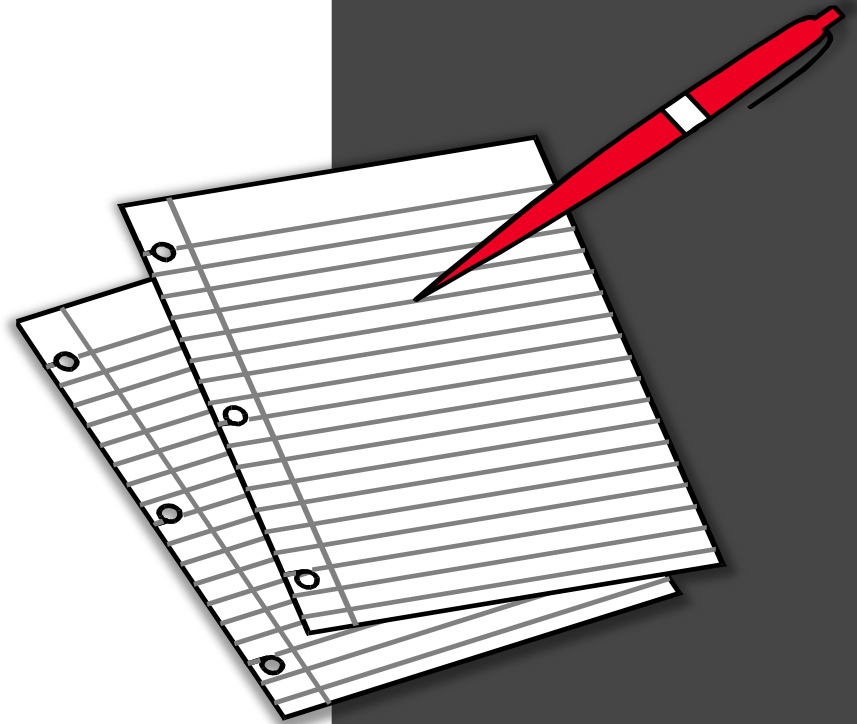
Will

- You decide who gets your estate when you die
- No bond required
- Taxes may be saved
- You select fiduciaries



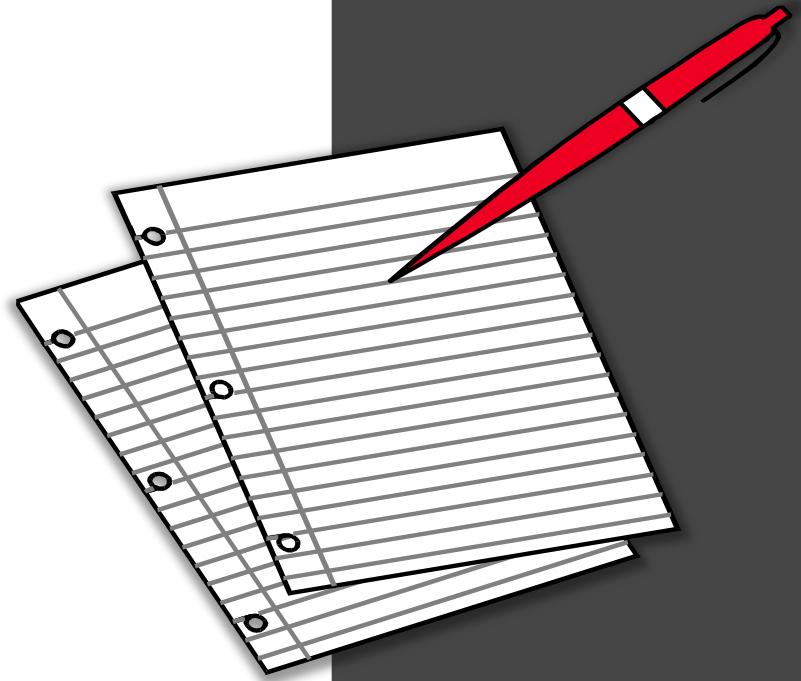
Living Trust

- Provides for management, investment, and distribution of your assets during lifetime and at death
- Frees you from responsibility of caring for your affairs if you become incapacitated
- Corporate Trustees available to serve
- Avoids Probate in several states
- Helps with consolidation of assets and record keeping
- Privacy is maintained



Irrevocable Trust

- May be used to reduce taxes
- Vehicle for making gifts to others
- Useful to protect assets
- Many different kinds



Power of Attorney

- Legal document that gives another person (your agent) authority to act on your behalf and manage your affairs
- Durable or springing
- Even a spouse does not have this right unless appointed by you
- Inexpensive to create
- Agent has fiduciary responsibility and accountability
- Alternative is guardianship



Living Will

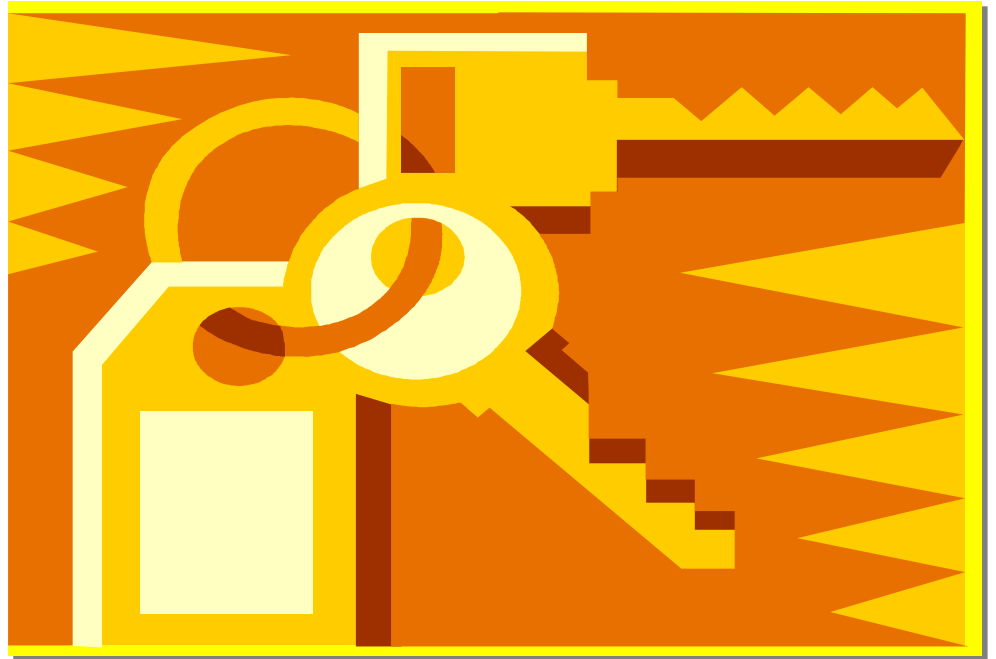
- You state your wishes regarding the medical treatment you want or do not want if you are terminal
- You name someone you trust to make medical decisions for you should you not be able to make them for yourself

**ADVANCE DIRECTIVE FOR
HEALTH CARE AND
DESIGNATION OF HEALTH CARE
REPRESENTATIVE**

No Plan – Your Wishes Are Not Legally Binding



Planning Is The Key, And Now Is Time To Begin



What Happens When You Pass Away?

What is the role of an executor?

- Probating the will in the Surrogate Court
 - Letters testamentary
- Opening an estate account
- Marshalling in the assets
- Payment of outstanding debts/medical bills
- Valuation of real estate, appraisals of tangible property, date of death values
- Selling real estate
- Filing tax returns
- Accounting to attorney general for charitable bequests



Estate Settlement

Estate Administration Timeline Upon Notification of Death:

- Consider immediate family needs
 - Review sources of cash for family maintenance
 - Surviving spouse's bank/brokerage accounts
 - Get several original death certificates from funeral home/family member
- Joint bank/brokerage accounts
- Pension and profit sharing benefits payable to an individual beneficiary
- Social Security and Veterans survivor benefits
- Life insurance proceeds payable to an individual beneficiary.
- Explain probate process to immediate family (or beneficiaries, as applicable)



Probate

Commence Probate or Administration Proceedings with Surrogate's Court

- File **original** Will
- Review the Will/Revocable Trust for its dispositive scheme and for information as to assets, beneficiaries and witnesses (self-proving)
- Identify beneficiaries and other persons required to be cited in proceedings; contact witnesses; prepare and file necessary papers
- Consider an application for preliminary letters testamentary or letters of temporary administration if letters are to be delayed and authority is required in the meantime to act for the interests of the estate
- Consider use of Small Estates Act as an alternative to probate, in the event the probated assets are less than \$50,000



What Assets Pass Outside of Probate

Many valuable assets don't go through your will and aren't affected by intestate succession laws. Here are some examples:

- Property you've transferred to a living trust
- Life insurance proceeds
- Funds in an IRA, 401(k), or other retirement account
- Securities held in a transfer-on-death account
- Payable-on-death bank accounts, or
- Property you own with someone else in joint tenancy or tenancy by the entirety.

These assets will pass to the surviving co-owner or to the beneficiary you named, whether or not you have a will.

Secure Property

- Secure the decedent's residence and private offices. **Remove valuables for safekeeping.** (Contact a locksmith and change the locks at the decedent's residence)
- Have **tangible personal property inventoried and appraised.** Have **Real Estate appraised** and obtain adequate insurance coverage
- **Review insurance coverage for real estate, automobile, tangible property and liability exposure.** Check ownership, payment of premiums and expiration dates of policies
- Take possession of checkbooks and passbooks. **Cancel credit cards**
- Get control of mail and **re-route the mail** to Bank's office
- **Check maturity dates for investments,** such as bonds, certificates of deposit, time deposits and tender offers
- **Review outstanding leases,** including rights to cancel or renew or extend the terms
- Review other **outstanding contractual obligations**
- Consider **tax returns** coming due or overdue. **Apply for extensions if necessary.**



Marshall in the Assets

- **Locate assets and gain control**
- **Confer with the family**
- Check attorney's records
- **Open decedent's safe deposit box**
- Send a letter to local banks inquiring as to bank accounts. (If you are unable to readily identify where current bank accounts are held)
- Review check books and income tax returns for information as to assets
- **Search the premises**
- **Re- register bank accounts and securities in the name of the estate**
- Apply for **life insurance payable to the estate**
- Make Blue Cross, **major medical and Medicare claims, and applications for refunds** on cancellation of any insurance or magazines
- Consider the provisions of the Will/Revocable Trust and (statute) as to the fiduciary's powers and duties. For example, to continue the decedent's business, to retain assets or to sell or reinvest assets. **Consult with and/or hire investment brokers, accountants or current custodians**

Determine Estate Cash Requirements

- Determine **funeral expenses**
- Obtain statements of balances due at death on mortgages and loans
- Review mail for **current bills**
- **Estimate administration expenses, including attorney's fees and commissions**
- **Make a preliminary determination of estate taxes owing** and proper apportionment of estate tax liability under the Will or (statute)
- Total the dollar amount of **bequests** under the Will
- Meet liquidity needs



Value The Assets

- Have real property appraised/market analysis
- Obtain date of death values on bank accounts from the banks
- Determine date of death values of securities
- Step up in cost basis



What Does The Realtor Do In An Estate Settlement?

- Meet with the Family / Executor
- Validate the Ownership of the Property with the Tax Assessor
- Present & Explain all Legal Listing Documents
- Work with the Family to Clean, Clear & Stage the Home for Today's Buyer
- Prepare and Facilitate the Media Presentation of the Property as well as the Print Copy
- Market the Property thru all available Resources such as the GSMLS, Open Houses, Realtor Network, etc.
- Respond to all Inquiries regarding the Property and the Showing of the Property
- Negotiate the Offers presented
- Handle all Inspections & CO (Certificate of Occupancy)
- Negotiate Inspection Issues
- Work closely with the Seller's Attorney and Buyer's Realtor to bring the Transaction to a timely conclusion with least amount of stress and delay
- Help Arrange Estate Sale for Contents of Home



Digital Asset Planning

- What are Digital Assets?
 - Access
 - Privacy
 - Encryption Keys



Pet Guardians: How To Provide For Your Pets In Your Will

- Treatment of pets under the law
- Naming a guardian
- Can you leave assets to a beloved pet?

Most Millennial Pet Parents Appoint
A Pet Guardian in Their Wills

78.48%

Of Respondents Own Pets & Assigned Pet Guardians



trust
& will

Source: "Millennials & Estate Planning in an Unprecedented Year" by Trust & Will, February 2021

Preparation For Tax Filings

- Apply for an EIN # for the estate
- File a Form 56 indicating a fiduciary relationship to IRS
- Gather and review decedent's previous tax returns
- Make a disclaimer if a beneficiary wishes to do so within 9 months of DOD to qualify under IRC Section 2518
- Will sales, gift, employer or foreign taxes be due?
- File the NJ inheritance tax returns (if necessary) within 8 months
- File the federal estate tax return and pay taxes within 9 months
- File the final income tax return of the decedent by April 15th of next year

Note: Beginning January 1, 2018, the New Jersey Estate Tax is no longer imposed for individuals who die on or after that date.

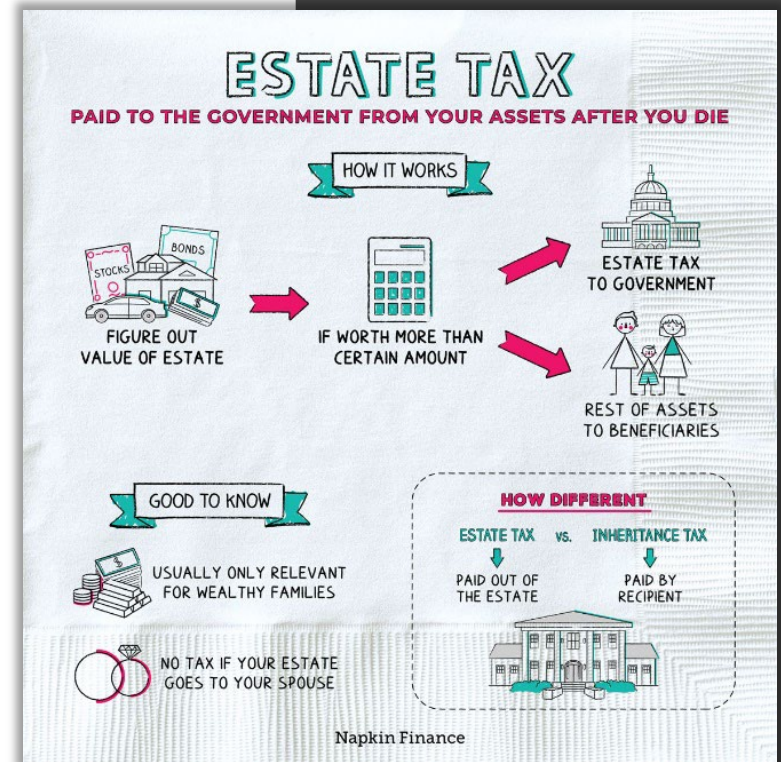
Final Account Proceedings

- Complete the account after the completion of the estate tax proceedings.
- File a report in the Surrogate's Court if required for an estate not fully distributed within two or three years of the issuance of letters testamentary, as required by (statute Rule for Surrogates court). Depends upon necessity of filing a federal estate tax return.
- Obtain releases or commence a formal court proceeding.
 - Informal accounting (statements with Receipt and Release's)
 - Formal accounting (court filing)



Taxation of Estates

- Estate tax is not a tax on income **but a tax on your right to transfer property at your death.**
- **Everything** that you own or have certain interests in at the date of death is included in your estate.
- Prior to preparing an estate tax return, we must first gather any and all gift tax returns that may have been filed in the past to determine whether any of the decedent's lifetime exclusion was used.



IRS Form 706

Not every estate needs to file a 706 tax return.

- Only those whose gross estate is more than \$12,060,000 for 2022
- This value may be reduced based on amounts already utilized in the past on the decedent's gift tax returns

Form 706 is for estates whose decedents were either US Citizens or US residents at the time of death.

Decedents who were neither US Citizens nor US residents at the time of death file form 706-NA for any assets held in the US.

What Is Fair Market Value?

Fair Market Value is used to determine the value of your **GROSS ESTATE**.

You don't use the value at the time of acquisition.

You can also use an alternative valuation date 6 months after date of death.

Includible property consists of:

- Cash
- Securities
- Real estate
- Insurance
- Trusts
- Annuities
- Business Interest
- Worldwide assets (**foreign property**)



Inheritance Tax

- **Class A** (descendant's grandparents, parents, spouse (including same sex spouse) and lineal descendants (includes adopted and stepchildren but not step-grandchildren), civil union or those registered as domestic partners)
- **Class E** (charities, New Jersey and political subdivisions)
- Non-exempt **Class C** (decedent's siblings, sons-in-law and daughters-in-law, domestic partners of a child. Tax rates:
 - First \$25,000 0%
 - Next \$1,075,000 11%
 - Next \$300,000 13%
 - Next \$300,000 14%
 - Next \$1,700,000 16%
- Non-exempt **Class D** (all not in Class C) Tax rates:
 - First \$700,000 15%
 - Over \$700,000 16%

Questions?

Our Panelists



Antonia Pancel- Cipric
Chief Fiduciary Officer

 **Beacon Trust**



Raymond J. Kowalik
Tax Manager

 **Beacon Trust**



Angela Titus McEwan
Partner

 **DAY PITNEY** LLP



Anne Shearman
Realtor

COMPASS

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