

ALASKA COMMUNITY FOUNDATION
&
UNIVERSITY OF ALASKA FOUNDATION
ESTATE PLANNING WEBINAR

*Presented by Chelsea Riekkola, Counselor at Law
Foley & Pearson, P.C.*



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Anchorage, AK 99503

- Wills
- Trusts
- Incapacity
- Estate Tax Planning
- Probate
- Trust Administration
- Alaska Community Property Agreements & Trusts
- Corporate Law & Business Succession Planning
- Charitable Legacy Planning



**BRIDGING
GENERATIONS**

What We Will Cover

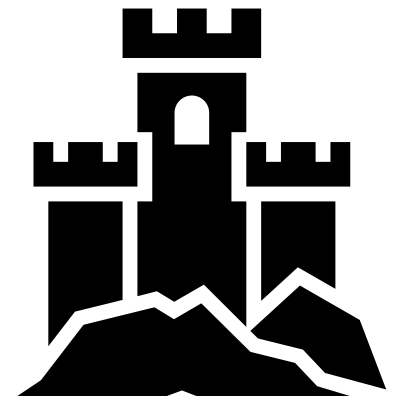
- The Definition of Estate Planning
- The Problem of Title
- The Probate Process (in a Nutshell)
- Powers of Attorney & Health Care Directives
- Basics of Wills
- Beneficiary Designations & Joint Titling of Assets
- Introduction to Trusts
- Protecting Inheritance for Loved Ones
- Estate Tax Basics
- Charitable Legacy Planning
- Odds and Ends



Definition of Estate Planning:

What Exactly *is* Estate Planning?

- Not just for fancy people
- Any decision or arrangement you make during your lifetime about how and by whom your property is controlled at your death or incapacity, including:
 - Beneficiary Designations
 - Pay on Death (POD) or Transfer on Death (TOD) Designations
 - Joint Titling
- Concerned with controlling costs at death or incapacity, including:
 - Administrative Expenses
 - Legal Fees
 - Accounting Fees
 - Appraisal Fees
 - Taxes



The Problem of Title:

Who Controls Property Upon Death or Incapacity?



- When you die or become incapacitated, someone needs to be given authority to manage, control and convey your property
- The legal process that confers authority to manage, control and transfer property depends upon the type of property and how it is titled

The Problem of Title:

Examples of How Property Might be Controlled at Death or Disability

<u>Property Type</u>	<u>Death</u>	<u>Incapacity</u>
• Bank Account	Probate	Power of Attorney
• Real Estate	Probate	Power of Attorney
• Joint Property	Operation of Law	Operation of Law
• Life Insurance	Ben. Designation	Power of Attorney
• IRA	Ben. Designation	Power of Attorney

Probate in a Nutshell:

How does Probate Work?

- Court supervised process conferring legal authority upon the Personal Representative (Executor) to wind up the financial affairs of the decedent
- Personal Representative is responsible for:
 - Managing assets
 - Accounting for creditors and taxes
 - Keeping all interested parties informed
 - Distributing property as directed by the Will, and
 - Providing an accounting
- Personal Representative has a “fiduciary duty” to creditors, heirs, devisees and beneficiaries
(put the interest of others first)





Estate Planning Tools for Incapacity

Power of Attorney



- Durable Power of Attorney in effect now and at incapacity
- Springing Power of Attorney comes into effect at time of incapacity
- Special or Limited Power of Attorney for specific tasks
- Considerable power with limited oversight
- Becomes ineffective at death



Estate Planning Tools for Incapacity

Advance Health Care Directive



- Appoints agent(s) to make health care decisions when you are not able to make the decisions
- Allows you to give directions regarding end-of-life care

Incapacity Without a Plan:

Guardianship/Conservatorship

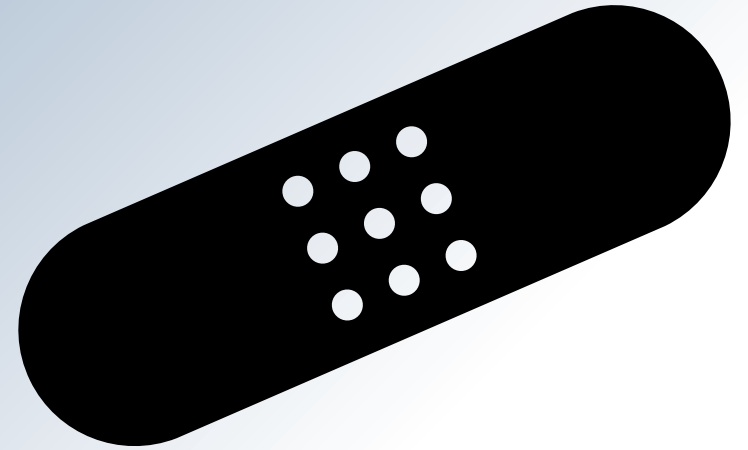
- Court-Supervised Care of Incapacitated Individual and His/Her Property
- Time Delay
- Emotional Cost
- Financial Cost
 - Attorney's Fees
 - Examining Physician's Fees
 - Court Visitor's Fees



Basics of Wills:

Intestacy (Dying Without a Will)

- State law will provide a plan for you
- Does not avoid probate
- No tax planning
- No planning for incapacity
- No provisions to manage or protect inheritance for heirs



Basics of Wills:

What Your Will Does

- Transfers property solely in your name
 - Specific Distributions
 - Residual Bequest
- Names Personal Representative & Successor Personal Representative(s)
- Names guardians for minor children
- Can create a testamentary trust for children or other loved ones



Basics of Wills:

What Your Will Won't Do

- Probate required
- Court involvement
- Potential time delay
- Public process
- Potential for probate in multiple states
- A Will only controls the transfer of property solely titled in the name of the decedent
- Joint titling, beneficiary designations, and pay on death arrangements supersede the Will



Beneficiary Designations:

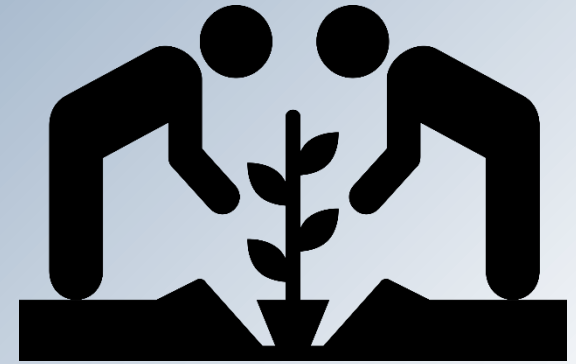
Part of the Whole Puzzle

- Named beneficiaries may not be consistent with Will
- Property often passes outright to beneficiaries without available protections:
 - No Estate Tax Planning Protections
 - No Asset Protections
 - No Provision to Manage Inheritance for Heirs
- Options: individuals; your estate; trusts for loved ones; or your living trust (more on that later)



Joint Tenancy with Rights of Survivorship:

Be Intentional



- Property passes automatically at death to the joint tenant
 - Potential unintended heirs
 - Subject to claims by creditors of co-owner(s)
 - May defeat tax or asset protection provisions in Will or Trust

Introduction to Trusts:

What is a Living Trust?



- A Contract
- You are Trustmaker, Trustee and Beneficiary while you are alive and well
- Names Successor Trustees to take control upon your death or incapacity
- Identifies and provides for beneficiaries after your death
- Acts as a “Will substitute”

Introduction to Living Trust:

How a Living Trust Works



- Appropriate retitling of assets (funding) with proactive involvement of the attorney is essential
- Should include appropriate definition of incapacity
- May include detailed personal instructions
- Can be named as a pay-on-death beneficiary (treat with caution)
- Detailed explanation of trusts is covered in the regular webinar Foley & Pearson teaches—outside the scope of today's webinar for the sake of time

Introduction to Living Trust:

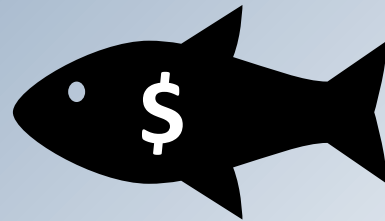
When to Use a Living Trust

- When you want to limit or avoid probate proceedings
- When you own property in more than one state
- When you have a taxable/potentially taxable estate
- When you want help with management of your financial affairs
- When you want to leave your wealth to your spouse or loved ones in a protective trust
- When you want your affairs to remain private

Protecting Your Estate for Loved Ones:

Not All Estate Plans Provide Asset Protection for Your Beneficiaries

- “I Love You” Wills
- Joint Titling
- Beneficiary Designations to Individuals



Protecting Your Estate for Loved Ones:

Not All Estate Plans Provide Asset Protection for Your Beneficiaries

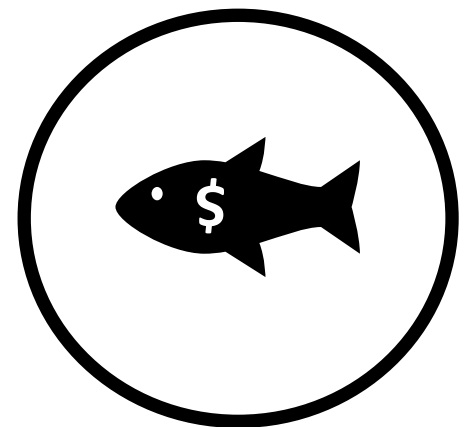
- Leaving assets in a Testamentary Trust for loved ones protects the assets from creditors and predators



Protecting Your Estate for Loved Ones:

Benefits of Inheritance Trusts

- Management Assistance
- Creditor Protection
- Protection in Event of Remarriage
- Safeguard Children's Inheritance (Bloodline Protection)
- Minor Children
- Financial Management Assistance
- Special Medical Needs
- Substance Abuse
- Protection from Creditors
- Protection from Divorce
- Generation Skipping Tax Planning
- Family Legacy Property



Estate Tax Basics:

What is the Estate Tax?

- A tax on the transfer of property or wealth, a/k/a “excise” tax
- Same rate applies to both lifetime transfers (gifts) and transfers at death (leaving someone an inheritance)
- Not an income tax
- What property is subject to the estate tax?
 - Anything that is titled in your name
 - Half of property that is jointly titled
 - Anything you can name a beneficiary on
 - Life Insurance
 - IRAs
 - Annuities



Estate Tax Basics:

What is NOT Subject to the Estate Tax?



- Marital Deduction
 - You can transfer unlimited wealth to your U.S. citizen spouse now or at death without triggering a federal estate or gift tax
- Applicable Exclusion Amount (The “Coupon”)
 - You can transfer wealth to anyone *other* than your spouse without triggering a federal estate or gift tax *up to* the “coupon” amount

Estate Tax Basics:

History of the Estate Tax Coupon Amount

Date	Exclusion Amount	Top Tax Rate
2001	\$ 675,000	55%
2002 (EGGTRA)	\$ 1.0 Million	50%
2009	\$ 3.5 Million	45%
2010 (TRUIRJCA)	\$ 5.0 Million or None	35% or None
2011	\$ 5.0 Million	35%
2013 (ATRA 2013)	\$ 5.25 Million (Indexed)	40%
2020	\$11.58 Million (Indexed)	40%
2022	\$12.06 Million (Indexed)	40%
2026	\$5.0 Million (Indexed)	40%

Estate Tax Basics:

Lifetime Gifts



- Annual gift limitation of \$16,000, indexed to inflation
- You must report gifts exceeding \$16,000 per person to the IRS
- May use some or all of the \$12.06 million Coupon during your lifetime, which allows larger gifts without triggering a tax
- Reduces overall Coupon amount at the time of death



Estate Tax Basics:

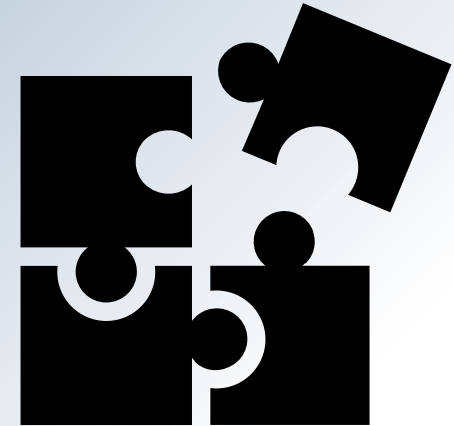
States May Also Impose Estate or Inheritance Taxes

- Alaska has no estate or inheritance tax
- Other states have estate or inheritance taxes in addition to federal estate taxes
- Taxes are imposed by states if you are a resident of the state or own real estate in that state when you die
- Washington and Oregon have a state estate tax

Odds and Ends:

Putting it All Together

- Will or Living Trust
 - “Pour-Over” Will for Trust-Based Plan
- Power of Attorney
- Advance Health Care Directive
- Memorial Instructions
- Memorandum of Personal Property
- Proper Beneficiary Designations
- Proper Titling of Financial Accounts and Real Property
- Community Property Agreement
- LLC



Charitable Legacy Planning:

Retirement Assets



- Human Beneficiaries of retirement assets (401(k)s, IRAs, 403(b)s, TERS, PERS, etc.) pay income tax on distributions
- 10 Year Rule applies under SECURE Act
- Charities DO NOT pay income tax
- Lifetime income tax savings: consider directing required minimum distributions (RMDs) to charities
- Income tax savings for beneficiaries after your death: consider naming charities as beneficiaries on retirement assets

Charitable Legacy Planning:

Donor Advised Funds

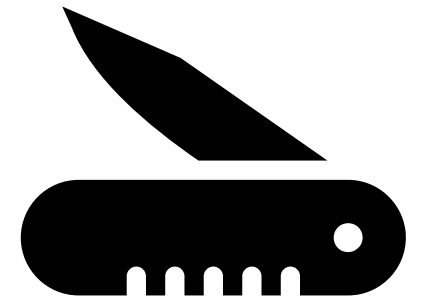


- Allows the donor to work with the charity during the donor's lifetime to create a "fund" and establish general goals for the fund (i.e. journalism, EDI work, social justice, wildlife, pets, children, the Arts, medicine, etc.)
- Donor then names an "advisor" who oversees the allocation of the fund dollars to achieve the donor's purpose after the donor's death
- Typically held at a community foundation, though not always

Charitable Legacy Planning:

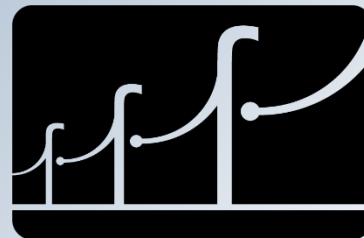
Other Charitable Planning Tools

- Charitable Remainder Trust (CRT)
- Charitable Remainder Unitrusts (CRUT – Cousin of the CRT)
- Charitable Lead Trust (CLAT)
- Charitable Gift Annuity (CGA)
- Endowments
- Private Foundations
- Lifetime Gifting



Thank You for Attending!

- Please fill out the short evaluation form
- Personal Information Forms are available for individuals interested in working with Foley & Pearson, P.C.
- Workshop schedule available at FoleyPearson.com



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