About Estate Planning and Trust Management

Estate Planning

A key deficiency in the process of planning for long term care occurs when seniors fail to provide for orderly distribution of assets at death and fail to let their family know what to do when the senior can no longer handle his or her own affairs.

Estate planning from a qualified estate planning attorney, a financial adviser who specializes in estate planning or a CPA planner is the design of documents to provide the orderly transfer of assets and property to the next generation. Wills, living trusts and a myriad of other trust documents or business arrangements to avoid estate taxes, income tax and real estate capitol gains are some of the principal documents used. Estate planning also concerns issues of business succession or disability of a business owner.

Many estate planners are also adding final directive or end-of-life documents such as living wills, powers of attorney and special medical directives. But often these are considered secondary to the process of transferring assets or property. Unfortunately, these documents are much more important to family caregivers dealing with the needs of elderly loved ones.

Estate planners also need to become more involved in the planning process for long term care by helping in the production of a written long term care plan. This should also include meetings with potential family caregivers and instructions or checklists for these people. This important aspect of planning is often overlooked.

Elders or their families who are assisting them should insist on more careful planning for long term care issues when doing an estate plan.

Some advisers have recognized this need and have put together a team of experts such as attorneys, care managers and financial planners who provide a more complete and comprehensive approach to estate planning, long term care and end-of-life issues.

Trust Management

Many people who create trusts or wills or both will designate a trust company or bank to be a trustee for their property instead of using a member of the family or close friend to do this. The reason is that, all too often, assets are mismanaged or even stolen by family members or friends. Using a trust company that has a legally mandated, public fiduciary responsibility avoids this problem.

Trust companies are valuable partners in the management of trusts and in the process of estate planning. These companies, for a small fee, will manage and invest assets, maintain escrow accounts, hold property pending an exchange sale, provide life insurance and income annuities and provide safekeeping of valuables.

A trust is a legal document that "entrusts" property to a trustee (a bank, attorney, individual or trust company) to manage for a person or persons (beneficiaries of the trust) whom the maker of the trust wants to benefit. In most cases, the maker of a trust is creating a benefit for a loved one that will be distributed after the death of the creator or maker of the trust. Trusts usually involve very specific and detailed instructions on how a trustee is to carry out the duty of managing or distributing the property on behalf of a beneficiary.

A trustee will manage investments, keep records, manage assets and prepare court accountings, paying bills and (depending on the nature of the trust) medical expenses, charitable gifts, inheritances or other distributions of income and principal.

A trust relationship is also created in a will when the maker of the will specifies an entity to be an executor or personal representative of the estate. This person or company then becomes a trustee for the deceased individual who made the will. The responsibilities of an executor in settling the estate of a deceased person include collecting debts, settling claims for debt and taxes, accounting for assets to the courts and distributing wealth to beneficiaries.

A third party trust officer such as a bank, attorney or trust company may also assume the role of a guardian for a minor child, distributing assets in a prearranged manner when the child becomes an adult. Or the trust officer may also act on behalf of a developmentally disabled or mentally retarded person distributing assets under a special needs trust.

Trusts are most often used with estate planning. The purpose of estate planning is to minimize the cost and streamline the process of distributing assets to the next generation. Here are some of the more common reasons people create trusts in estate planning.

To avoid probate
To minimize or eliminate estate taxes
To create life insurance trusts
To avoid capital gains taxes on the sale of property
To create an annuity income through charitable gifting
To receive a charitable gifting income tax deduction
To manage assets on behalf of a minor or someone who can't handle his or her own affairs