

ESTATE PLANNING ESSENTIALS

1. The Importance of Estate Planning
 - a. Assurance that your property will pass in accordance with your wishes
 - b. A husband and wife can eliminate \$385,600 in estate taxes or more, depending on their tax bracket
2. The Primary Estate Planning Tools -- Wills and Trusts
 - a. Wills
 - b. Principal Advantages
 1. the surviving spouse may avoid Medicaid spenddown requirements
 2. unasserted creditors' claims are cut-off six months after probate commences
 - c. Principal Disadvantage: time and expense of probate
3. Living Trusts
 - i. Principal Advantage: avoids probate
 - ii. Principal Disadvantages
 1. the surviving spouse cannot avoid Medicaid spenddown requirements
 2. no cut-off of unasserted creditors' claims
 3. may be cumbersome to manage
 4. property transferred directly from the living trust to anyone other than the grantor may cause additional estate taxes
4. Irrevocable Life Insurance Trusts
 - . Principal Advantage: avoids estate tax on life insurance proceeds
 - i. Principal Disadvantage: if circumstances change, the trust cannot be amended or revoked
5. Primary Techniques To Reduce Estate Taxes
 - . Surviving Spouses
 - i. unlimited amounts of property may be left tax-free to surviving spouses, regardless of whether the property passes by joint tenancy, will, or living trust
 - a. Children and Other Heirs
 - . a husband and wife may leave property worth up to \$1.2 million tax-free to their children and other heirs by each fully utilizing their Unified Credit
 - i. the Unified Credit may be fully utilized whether property passes by a will or by a living trust
 - ii. full utilization of the Unified Credit is a two-step process
 1. first: spouses must each own property worth up to \$600,00 separately and in their own name

- a. spouses may acquire property worth up to \$600,00 by changing ownership of jointly-owned property (such as a house or a bank account) into the name of one spouse
 2. second: the property separately owned by each spouse must pass into a trust known as the Family Trust
 - iii. the Unified Credit may be utilized with estates worth less than \$1.2 million
- b. The Family Trust
 - . separately-owned property may pass into the Family Trust through a will or a living trust
 - i. special instructions placed within the will or living trust cause the separately-owned property to pass into the Family Trust
 - ii. the surviving spouse may be the primary beneficiary of the Family Trust
 - iii. the property within the Family Trust ultimately passes to the children or other heirs free of estate taxes.