

MPT Estate Planning Webinar

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Overview of Estate Planning

- Foundational Estate Planning Documents
- Will vs. Revocable Trust and Probate
- Property Ownership and Beneficiary Designations
- Coordinating your Estate Plan
- Estate Planning and Taxes
- MPT Foundation, Inc. and Planned Giving

Financial Power Of Attorney

- Everyone should have a Power of Attorney
- Avoids a Protracted Guardianship Proceeding
- Durable Power of Attorney vs. Springing Power of Attorney
- Appoint primary and successor agents or co-agents
- Agent can make decisions on your behalf and can take action with respect to your property if you are unable or unavailable to act
- Can be used while you are competent or incompetent
- Maryland Statutory Form Power of Attorney

Health Care Power of Attorney

- Designate a trusted person to carry out health care decisions on your behalf and to communicate with health care professionals regarding your health and medical treatment
- Appoint primary and successor health care agents
- Health care agent will carry out your instructions as known to the agent, including your directions stated in your Living Will

Living Will

- A Living Will is a written instruction stating you do not want medical intervention or life-sustaining procedures if you have any of the following conditions:
 - **Terminal condition**
 - **Persistent vegetative state**
 - **End stage condition**
- You desire to die naturally with medication only for comfort and to alleviate pain (generally)
- May request food and water (which can extend life)

Maryland Medical Orders for Life-Sustaining Treatment (MOLST)

- Medical order completed by doctor or nurse practitioner
- The MOLST replaces the traditional DNR. The MOLST has many sections; only sections completed identify your decisions.
- If you do not have a DNR completed on your MOLST form, medics in MD must attempt resuscitation.
- The MOLST does not replace your Living Will or Health Care POA, but make sure they are consistent.

Last Will & Testament

- Legal document which distributes property titled in **your individual name**
- Often viewed as the cornerstone of the estate plan
- Appoints the Personal Representative of the decedent's estate and names the guardian for minor children
- Can incorporate estate tax planning
- Can create trusts under the Will (known as testamentary trusts) for the spouse, minors, special needs individuals, and for beneficiaries who can't manage finances or who have creditor issues

Revocable Living Trusts

- **Grantor or Settlor** establishes the trust
- **Trustee:** Manages the trust property in accordance with the terms of the trust
- **Beneficiaries:** Have rights to the trust assets pursuant to the trust provisions
- Must also have a pour-over Will
- Like the Will, the Revocable Trust distributes your property and determines who gets what and can incorporate estate tax planning and create sub-trusts for beneficiaries

Comparing a Will Plan with a Revocable Trust Plan

Wills

- No retitling of assets
- Costs less than a Revocable Trust to establish
- Register of Wills and Orphans' Court oversight of decedent's estate and assets
- Will and estate filings are of public record
- The estate will remain open for at least 6 months
- Small estate administration and Modified estate administration can streamline the probate process
- Like a Revocable Trust, the Will can create sub-trusts for beneficiaries
- Probate Fees payable to Register of Wills

Revocable Trusts

- Assets in trust avoid probate
- Trustee manages assets during lifetime, incapacity and at death
- Must re-title assets
- Not subject to public scrutiny or of public record
- Streamlined administration period due to no court or third party oversight at death
- More expensive to create; must still have a pour-over Will
- Does not provide income tax or estate tax advantages over a Will

When Does a Probate Estate Have to be Opened?

- An Estate must be promptly opened if the decedent died owning probate property of any kind. **Probate property** is property:
 - In the decedent's **name alone**, (including bank accounts, real estate, stock certificates, LLC or partnership interests), or
 - Owned by the decedent as a tenant in common with another
 - Non-probate property is property other than probate property and consists of jointly owned assets, beneficiary/POD/TOD designated assets and trust owned assets

Why is Probate Necessary?

➤ Probate is the legal process of:

- ❖ Taking the steps necessary to ensure that a Will is valid
- ❖ Appointing the Personal Representative (“PR”) of the decedent’s estate in the Register of Wills office where the decedent was domiciled at death
- ❖ Issuance of Letters of Administration to the PR
- ❖ Determining the title and value of a deceased person’s probate property
- ❖ Distributing probate assets in accordance with Will

What are the Probate Fees Associated With an Estate?

IF THE VALUE OF THE PROBATE ESTATE IS AT LEAST		BUT IS LESS THAN	THE PROBATE FEE IS
\$0		\$50,000	\$0
\$50,000		\$100,000	\$100
\$100,000		\$500,000	\$200
\$500,000		\$1,000,000	\$1,000
\$1,000,000		\$2,500,000	\$2,000
\$2,500,000		\$5,000,000	\$5,000
\$5,000,000		\$7,500,000	\$7,500
\$7,500,000		\$10,000,000	\$10,000
\$10,000,000		-----	\$10,000 plus .02% of excess over \$10,000,000

Ownership and Titling of Property

Title to Property

- Sole Ownership
- Tenants in Common
- Joint Tenants with Rights of Survivorship/Tenancy by the Entirety for married couples
- Payable on Death (P.O.D.)
- Transfer on Death (T.O.D.)
- Life Estate

P.O.D/T.O.D Designations

- Allow bank accounts and brokerage accounts to pass to designated beneficiaries upon death, bypassing probate
- Accounts with P.O.D. or T.O.D. designations are **not** controlled by one's will or revocable trust
- Cautions:
 - ❖ Could work against estate planning goals
 - ❖ Limitations on divisions
 - ❖ No contingent instructions
 - ❖ Unavailable for payment of final expense and/or funding of charitable bequests
 - ❖ Outright disposition to named beneficiary

Beneficiary Designations

- Ensure primary and secondary beneficiary designations are completed on all:
 - Life Insurance Policies
 - Retirement Plans/IRAs
- Beneficiary designations are **not** controlled by a will or revocable trust unless directed to a trust created by either
- Make sure your beneficiary designations are consistent and coordinated with the overall plan
- *Per Stirpes* designation on a beneficiary designation form provides for a deceased beneficiary's descendants
- Do not name a Minor directly as a beneficiary
- Life changes should trigger a review of beneficiary designations
- MVA now permits you to go on-line and designate a single beneficiary of your vehicle for a \$20 fee

Common Estate Planning Mistakes

- Expect your Will or Revocable Trust to cover everything
- Not understanding how assets pass or which document controls the disposition of an asset
- Failure to align property ownership and beneficiary designations with the overall plan
- Failure to regularly review and update beneficiary designations
- Failure to only name a primary beneficiary, while forgetting to name a secondary beneficiary

Federal Estate Tax

- Estate Tax Rate of 40%
- \$12,920,000 Estate Tax Exemption per individual or \$25,840,000 Estate Tax Exemption per couple through 2025 and then sunsets; (indexed annually for inflation, sunseting)
- Portability of the estate tax exemption among spouses
- Must file estate tax return to claim portability at first spouse's death
- Unlimited marital and charitable deduction
- Cost basis of decedent's assets: Fair Market Value as of date of death known as the "step up in basis"; can also result in a step-down in basis.

Maryland Estate Tax

- Graduated Estate Tax Rate – Top rate of 16% for estates over \$10,040,000
- 2019 and beyond: \$5,000,000 Maryland estate tax exemption (not indexed for inflation)
- Portability of exemption among spouses available in 2019 and beyond
- Estate Tax Exclusion for Qualified Ag Property:
 - i) \$5M of qualified ag property excluded
 - ii) 5% tax rate on property in excess of \$5M
 - iii) Farm use for 10 years post-death

Maryland Inheritance Tax

- Unless exempted under Maryland statute, there is an inheritance tax of 10% due on distribution of assets.
- For decedents dying on or after July 1, 2000, inheritance tax does not apply to the receipt of property that passes to a charity or from the decedent to the decedent's:
 - Grandparent, parent (includes stepparent/former stepparent) spouse, child or other lineal descendent, spouse of a child (includes stepchild or former stepchild) or other lineal descendent, brother or sister, charitable organization, a corporation, partnership or limited liability company if all of the stockholders, partners or members consist of no other persons other than those related to the decedent as mentioned above.
- Domestic Partnership Exemption for Primary Residence

Federal Gift Tax

- Gift Tax Rate of 40%
- \$17,000 per year, per person, is the Annual Exclusion
- \$12,920,000 Gift Exemption per person/\$25,840,000 per couple through 2025 and then sunsets; (indexed annually for inflation)
- Cost basis: Carry-over basis for gifted assets
- Unlimited transfer between spouses
- Unlimited charitable donations/deduction
- Unlimited gift exclusion for direct payments of tuition and medical expenses directly to provider/institution
- Gift tax return required for gifts above the Annual Exclusion amount to any individual

Qualified Charitable Distribution From an IRA to MPT Foundation, Inc.

- Qualified Charitable Distribution (QCD) is a tax-free transfer from an IRA to a qualified charity.
- QCD must be payable *directly* to a public charity like MPT Foundation, Inc.
- QCD transferred to MPT Foundation, Inc. is not eligible for charitable deduction and is not included in AGI, but can count toward one's RMD.
- IRA owner must be age 70 ½ or older
- \$100,000 is the max QCD per person, per year, indexed for inflation after 2023.

Bequest of IRA to MPT Foundation, Inc.

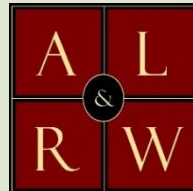
- Designate a percentage or entire IRA to MPT Foundation, Inc.
- Bypass Income and Estate Taxes
- Complete Beneficiary Designation form and file it with IRA custodian

Other Planned Gifts to MPT Foundation, Inc.

- Charitable Remainder Trusts
- Charitable Lead Trusts
- Bequest in Will or Revocable Trust
- Private Foundations
- Donor Advised Funds
- Gifts of Securities (low basis or middle basis stock)
- Life Insurance Policies (transfer ownership for income tax deduction of CSV or name charity as a beneficiary)

Questions and Answers

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