

BASIC ESTATE PLANNING

What is basic estate planning and why do I need it for my family?

There are generally two ways to transfer a deceased loved one's estate to the heirs. You can either let the government administer the estate publicly through probate court, which collects all the assets, pays the debts, and distributes the remaining assets to the heirs. Or the family can set up their own estate plan to distribute the estate assets to the heirs *privately* without government interference.

Oddly, most people still allow the government to handle the transfer of their estate to their heirs through the process of probate court administration. *Even if you have a Last Will*, your estate must still go through the government's probate process for all assets owned in the decedent's own name at the time of passing. However the government's plan can be: **1)** time consuming (6 – 18 months); **2)** problematic (the family loses control & access to badly needed assets until completion of the probate process); **3)** expensive (your estate can suffer shrinkage of 5 – 10% for fees, costs, etc.), and **4)** the private affairs of the family become a *public* record subject to scrutiny by everyone, including creditors, predators, disgruntled heirs, etc.

Basic estate planning allows you to retain *private* control over how your estate passes to your heirs without government interference. By setting up a living trust, you create a separate legal entity from yourself that has its own legal identity. Like a corporation, your living trust holds the title to your assets for you. Initially, you as the person setting up the trust, will usually serve as the initial trustee thereby maintaining complete control over your assets during your lifetime. Upon your passing, your trust continues to exist, and your successor trustee (usually a spouse, adult child, etc.) assumes immediate control of the assets in your trust, administering them *privately* in accordance with your instructions in your trust agreement.

The reasons for creating a living trust include: **1)** avoiding guardianship proceedings should you become incapacitated and are unable to manage your assets; **2)** avoiding the probate process, along with the costs, fees, delays, and problems associated with probate; **3)** avoiding will contests; **4)** maintaining the *privacy* of your family affairs; **5)** avoiding payment of federal estate tax on assets over the lifetime exemption amount; and finally **6)** to care for your family or other heirs, and to pass your estate to your heirs as easily and efficiently as possible. Also, the cost savings of a living trust to your estate are substantial, thereby preserving more of your assets for your heirs.

Your basic estate plan will also include a financial power of attorney, healthcare power of attorney, and a Living Will. For more information, contact Attorney Jim Keys for a free consultation.