Law Office Of Inna Fershteyn

# ESTATE PLANNING STRATEGIES TO PROTECT YOUR ASSETS AND MINIMIZE YOUR TAXES

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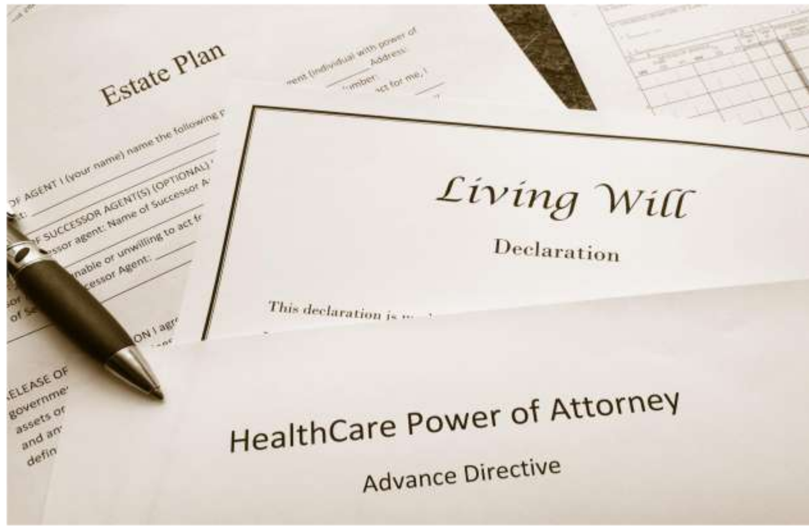
# WHAT IS AN ESTATE PLAN?

Estate Planning involve difficult decisions about your estate that include the disbursement of property and assets. You and your attorney will work together to develop estate plans which include:

-Disposition of Your Estate
-Asset protection, Asset Management & the Division of Assets
- Health care decisions
-Guardianships
-Tax Considerations
-Retirement Plan

# FIVE ESSENTIAL ESTATE PLANNING DOCUMENTS YOU SHOULD HAVE




There are many estate planning documents that you should have, these include:

1) You should have a will, a will is a legal document used to express your last wishes. It dictates how your estate will be allocated after death
2) Another important document is a Durable Power of Attorney, it gives an individual the ability to make decisions in the case that you become incapacitated and cannot handle matters yourself.
3) A Healthcare Power Of Attorney, is a legal document that allows you to appoint a trustee to make decisions about your healthcare if you become unable to do so.
4) One other important document to be aware about is a Living Will, this legal document states your expressed wishes for medical care if you were to be under certain medical circumstances.
5) A Revocable Living Trust is a popular estate planning tool that is used to determine who gets your estate after your death.


# 6 COMMON ESTATE PLANNING MISTAKES YOU SHOULD AVOID

It is important to make sure that you avoid some of the most common mistakes when its comes to estate planning. Not having an estate plan is the most common mistake, as well as forgetting to keep your will updated, putting your children on the deed, choosing the wrong executor, not planning for disability, and lastly not meeting with an estate planning attorney.

# TAX BENEFITS OF ESTATE PLANNING

There are certain taxes that you should know about when it comes to estate planning. You should always be aware of how taxes will affect your assets once they are passed down. The first tax that you should be aware about is the federal and state taxes. Due to the federal estate tax exemption, the federal estate tax only applies to estates whose value is more than $11.18 million. Apart from federal taxes, an estate is also subject to state law taxes. Each state has different state taxes that change yearly. New York estate tax ranges from 3.06% to 16%, depending on the size of the estate. The tax threshold for New York is $5.25 million, meaning that if your estate is worth less than that, then you do not owe any taxes to the state. To know exactly how much taxes you will need to pay to the state and federal government, you must know which taxable estate bracket you are in depending on how much the estate is worth.

Another form of tax that is applied to an estate is inheritance tax. In New York State, there is no inheritance tax. There re only 6 states that have an inheritance tax, which is a tax imposed on certain beneficiaries who received property. New York also does not have a gift tax. However, gifts made within three years of the descendants deaths are considered to be apart of the estate. Although New York does not have a gift tax, the federal government does. If a gift is worth more than $15,000 in 2018, then the federal gift tax applies. With a federal gift tax, there is also a gift tax exemption. This essentially gives you a lifetime exclusion to paying gift tax, worth up to $5,340.00.


# HOW TO REDUCE ESTATE PLANNING

There is an important tax that you should be aware about, if planned correctly, you may be able to avoid paying such high rates, If done at least over three years before the decedent's death and with a value of less than $14,000, giving away assets to beneficiaries as a gift is a good way to prevent paying higher taxes. You can do this yearly and reduce the value of your estate so the federal and state taxes will be lower or nonexistent at the time of your death.

When inheriting an asset, the value of the property will “step-up” to the value that it is when the decedent dies. This goes hand in hand with capital gains tax, which is a tax paid on the difference between what you paid for an asset and its current value. By applying the step-up basis, the heir pays less capital gains tax on the inherited asset since the value of the property will be valued not as the purchase price, but at the price at which it was inherited.

By having a living trust is another good way to reduce estate taxes, making an irrevocable life insurance trust , as the owner of your life insurance policy. This takes away the value of your insurance from your estate, which overall reduces its value. By reducing the value of your estate, you will be subject to lower tax rates and may possibly avoid paying estate taxes altogether. In doing so, however, you give up any right to make changes to the trust.

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# RISKS OR INCORRECT ESTATE PLANNING

Most people know that estate planning is the most effective way to transfer your assets to loved ones after you pass. There are several steps which you can take to reduce their risks and create an effective plan for their estate. A good place to start with is to identify what your risk factors are. What this generally entails is meeting with advisors and/or attorneys who can help you understand the specifics of different parts of estate planning- for instance life insurance, investments, overall finances, and the overall estate plan.

Another element which could assist you with mitigating risk is to review your plan consistently. Generally, it is best to meet with your advisor at least once a year, or in case of a major change that could affect your plan, like health issues or a change in tax law.

A further step you could take to reduce risk is to purchase a life insurance plan, if you haven't done so already. Life insurance can be utilized in a variety of ways to reduce risk when it comes to estate planning; for instance, it can be placed in several kinds of trusts, or offset the loss of some assets that are transferred to an irrevocable (meaning the assets aren't yours anymore, rather they are the property of the beneficiary's) trust, or in other cases.

It is also useful to pay attention to the fine details when it comes to estate planning. Not making mistakes like using company funds for personal business, or creating an insurance trust without a bank account, goes a long way towards mitigating your risks. In addition, when it comes to planning a trust, you should use an institutional trustee– they should keep records, have procedures, and in short, ensure that your trust is managed without error. In order to further reduce risks, you should try to plan your trust in a state that is more trust friendly, like Delaware– this will reduce some of the legal risks involved with your plans.

Likely the most important part of mitigating risk is to layer everything. For example, if you have LLCs (limited liability corporations) under an irrevocable trust, those LLCs could also hold some assets. If you'd like to further protect your assets, you could layer insurance umbrella policies to ensure their safety.

# WHAT TAXES WILL I HAVE TO PAY WHEN I RETIRE?

Once you retire there are key taxes that you may need to pay either during or throughout your retirement.

Though we all know about social security, not everyone is aware of and expects to pay taxes on their social security money. But, if your only source of retirement income is what you receive from social security, you likely won't owe any taxes during requirement. However, if you are living off another income, odds are a portion of your social security money will be taxed. The amount of your social security that may be taxed depends entirely on how much “combined income” you or you and your spouse bring in. Depending on that sum (and your state), you can pay anywhere from 15 to 45 percent on 85 percent of your social security benefits, and any other income brought in is deductible up to $20,000.

Another tax that you may owe throughout retirement is on withdrawals made from retirement accounts such as IRAs or 401(k)s. Since withdrawals must be reported on your tax return as taxable income, you'll have to pay a percentage of each withdrawal as tax, which people are usually aware of when they set up these types of tax-advantaged accounts. As always, the tax liability on your withdrawals depends on your total income, deductions, and the tax bracket in which you find yourself.


# WHAT TAXES WILL I HAVE TO PAY WHEN I RETIRE?

There is a easy way of seeing if pension tax will be taxed: if it went in before tax when the individual withdrew, it would be taxed. Since these pension accounts are funded with pre-tax income, the amount of annual pension income will be included on your tax return as taxable income each year. If this occurs, you can ask that taxes be withheld from the pension check directly. If some of the pension was funded with after-tax dollars then each year, a portion of the pension income will be taxable and a portion will not.

If you're over the age of 65, odds are you either have or known of annuities, which are annual distributions of money paid to an individual, usually for the rest of their life. Unfortunately, financial products don't escape the wrath of taxation. If an annuity is owned by an IRA or other type of retirement account, then taxes on IRA withdrawals will apply to any annuity payments that the individual receives from the annuity. If the annuity was purchased with after tax dollars, then the tax rules that apply depend on what type of annuity the individual purchased.

Moving to a new house or community can also generate an unanticipated tax bill. Fortunately, if you decide to sell your property and you've lived in your primary residence for at least two of the five years prior to the sale, you may be able to e exempt from taxes up to a certain percentage of the sale profits. Profits that are above a certain amount though will be subject to capital gains rates that often can go as high as 20%.

# AVOID LARGE TAXES DURING YOUR RETIREMENT

There are various ways to help avoid large taxes during your retirement:

- The easiest way to trim your retirement tax bill is to put your money in a Roth IRA. Your contributions as well as the money you earn in that account will come out tax-free.

- Another option is to open an HSA; this usually only applies to individuals with high-deductible insurance plans. If the health plan meets the guidelines of the IRS, the individual can open a health savings account which allows money to be put in pre-tax, grow tax-deferred and as long as you spend the money on qualified health costs, you never pay taxes on it.

- Another way to help trim tax in retirement is to pay off your mortgage and reduce living expenses. The less you need to withdraw from retirement accounts that require taxes on withdrawals, such as traditional IRAs and 401(k)s, the lower the tax bill.

-Consider investing in municipal bonds. Generally municipal bonds are tax-exempt, meaning you wont owe federal tax on the income you receive.

- If you have an IRA or 401(k) and a Roth IRA or Roth 401(k), then one way to control your taxes is to manage your withdrawals in retirement.

# YOUR TAXES MAY BE LESS THAN YOU THINK

While there's no avoiding a tax bill during retirement, it's certainly useful to know that your taxes may not be as high as you may imagine. One key point to keep in mind is that since you are no longer part of the workforce, any applicable tax rates apply solely to your pensions income, taxable retirement account withdrawals, and any additional income from businesses or other jobs. As mentioned earlier, social security income will only be partially taxed if taxes at all. Withdrawals from your Roth IRA will also be tax-free if you've had the account for at least five years or are over the age of 59 ½ . As usual, accessing any funds in your savings will also be tax free.

If you know that you live in a relatively high-tax state and you find it to be a major issue, it's a good idea to have a family discussion about moving to a tax-friendly state such as Texas, Florida or Nevada which don't tax income at all. To ensure that you are all set for the final stage of your life, we highly recommend you consult with a licensed estate planning attorney as well as a financial advisor to get all your documents in place for a smooth transfer of assets and a strategy to minimize your tax bill during retirement.

# FREQUENTLY ASKED QUESTIONS

## What assets can I transfer into my Trust?

Any property real or personal can be transferred into the trust with the exception of the IRA plans and Life Insurance policies. Although you cannot transfer your IRAs into the trust there are ways to ensure that the IRA funds will be received by the beneficiaries even if the beneficiaries are minor children. An experienced estate planning attorney will explain the process to you in great details and complete all transfers into the trust in accordance with applicable state law.

## Will Medicaid take my house if I get into a nursing home or other long term care facility?

The answer depends on your particular situation. If you live with your spouse and only one of you gets into the nursing home without proper elder care planning in place, the house will remain in the other spouse's possession during his life. However, the Medicaid can put a lien on the house if the proper Medicaid planning is missing. Thus, losing your home to pay back to Medicaid is a real possibility.

## What is a difference between a Trust and a Will?

The simple answer to this question is a will has to undergo a process of "Probate" in the surrogate's court of the state where the decedent died, which is a long and complicated procedure no matter what state you are in. In New York, it takes over one year to probate the will and the cost of such probate can be as high as 6% of the value of the entire estate. The will is not valid unless it is probated and the letters of testamentary are issued. A Trust does not need to go through probate and allows your beneficiaries to get access to your estate immediately after the death of the settlor of the trust without going through any court proceedings. While it typically costs more to set up the trust than draft a will, a trust is a more cost effective way of owning your assets and allows one to pass its estate to the beneficiary without extra expenses of probate. A trust also becomes effective on the day of its creation while a will is only legal on the day when the Surrogates court "validates the will" and issues letters of testamentary.

## Why should I do the Trust? Can I just transfer the title to my real estate to my children?

It is never a good idea to just transfer a deed from one name to another. By transferring your assets outright you are not only making a gift which is a taxable event, but you are also incurring real estate transfer taxes and other fees that can be easily avoided with proper estate planning from an experienced trusts and estates lawyer in New York. Moreover, the person who receives a gift outright will automatically inherit donor's tax basis on the property which could have appreciated in value significantly over the years. This will in turn cause capital gain taxes to be much higher than if the property were to pass to the same person through a Will or a Trust.

# HIRE AN ATTORNEY

**Law Office of Inna Fershteyn and Associates, P.C. understands that estate planning is personal. The best trust and estate lawyers in New York will work diligently to ensure that individual concerns are carefully addressed and goals are met. With our extensive knowledge of trust and estate administration, we will work with you to develop a comprehensive estate plan and offer knowledgeable guidance that will give you peace of mind as well as secure your family's future. For estate planning help, contact us today! Call (718) 333-2394 to set up a consultation or contact us online.  Call (718) 333-2394 to set up a consultation or contact us online.**