

ESTATE PLANNING

CRAIG E. HUGHES

**MAY 15, 1997
BOUNTIFUL, UTAH**

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PACE & HUGHES
ATTORNEYS-AT-LAW

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"DO YOUR FAMILY A FAVOR; DISINHERIT UNCLE SAM."
PACE & HUGHES, PRACTICAL ESTATE PLANNING™

OUTLINE

1. What is Estate Planning?
2. What are non-tax reasons for Estate Planning?
3. What are tax reasons for Estate Planning?

1. What is Estate Planning?

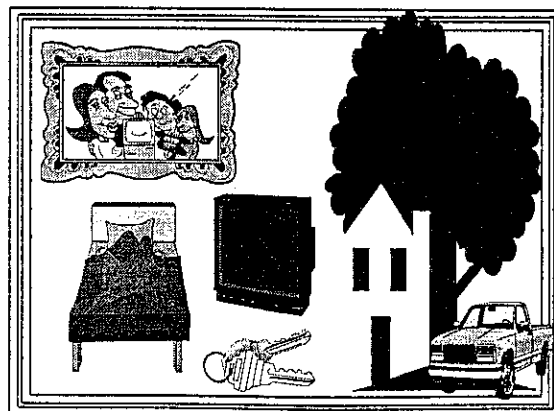
- * Brief Definition
- * What Constitutes Your Estate?
- * What Are the Ways You Can Get Rid of Assets?
- * What Are the Required Legal Steps in Giving Away Your Assets?
- * When Can You Give Away Your Assets?
- * What Are Trusts and Wills?

What is Estate Planning?

Estate planning is the work of ensuring that your estate, all your assets, go to the people or organizations you desire in the amount you desire and at the time you desire.

What Constitutes Your Estate?

- * Your estate is comprised of any asset in which you have an ownership interest: your house and everything in it; vacation homes; time-share interests; real estate; automobiles; recreational equipment; publicly or privately-held stock; investment funds; income rights to benefit plans; interests in partnerships; all proceeds from life insurance policies on your life.



What are the ways you can get rid of assets?

- * Destroy the Assets.
- * Sell The Assets.
- * Give Away the Assets.

What Are the Required Legal Steps in Giving Away Your Assets?

- * Your claim to assets is found in a piece of paper (title documents)
- * To give away your assets, the name on the title documents must be changed to the person to whom you are giving the assets.

QUITCLAIM DEED

Ryan G. Wiz and Pam A. Wiz, Joint Tenants, as Grantors, hereby CONVEY, WARRANT, AND FOREVER QUITCLAIM to Junior G. A. Wiz for the sum of TEN DOLLARS (\$10.00) and other valuable consideration, the following described real piece of property situated in Salt Lake County, State of Utah:

.....
Ryan G. Wiz
Ryan G. Wiz
Pam A. Wiz
Pam A. Wiz

When Can You Give Away Your Assets?

- * During Your Life (Inter Vivos Transfers)
- * After Your Death (Testamentary Transfers)

Inter Vivos Transfers

- * Change Names on Title Documents
- * Disadvantages
 - * Lose Control of Assets.
 - * Prodigal Children Waste Assets.
 - * Debtors and Litigants Attach Assets.

Testamentary Transfers

- * To retain control of your assets during your life and then, upon your death, to transfer the assets to your beneficiaries, you would use testamentary documents, known as trusts and wills.
- * Disadvantages of Trusts and Wills
 - * Complexity
 - * Future Paper Work
 - * Cost of Preparation

What Are Trusts?

- * A trust is a distinct legal entity.
- * A trust is an agreement between two people, the grantor and the trustee.
- * The Grantor agrees to transfer title to assets to the trust, and the trustee agrees to hold and administer the assets according to the wishes of the grantor as set forth in the agreement.
- * A trust is only valid and operational when the names on title documents have been changed to show that the trust holds title to assets.

What Are Wills?

- * A will is not a distinct legal entity.
- * A will cannot hold title to property.
- * A will is not an agreement or contract between different parties.
- * A will is a declaration of your desires regarding the disposition of property and care of family upon your death.

2. Non-Tax Reasons for Estate Planning

- * Control disposition of property in light of particular family circumstances.
- * Provide for minors or disabled family members.
- * Discourage family fights.
- * Avoid probate

Probate

- * Probate (Latin: To Prove) is the legal process of proving who owns title to property. Someone else defined it as, "a lawsuit you file against yourself after you're dead with your own money for the benefit of your creditors."
- * Advantages of probate
 - * Establish title to disputed assets
 - * Settle the Estate

Continued . . .

Probate

. . . Continued

- * **Disadvantages**
 - * **Cost:** Formal probate costs at least two to eight percent of the value of the probate assets. The costs cover court and legal fees and administrative expenses. The costs must be paid by the beneficiaries out of their own pockets or out of the estate assets before the probate assets can be released.
 - * **Time:** Formal Probate takes an average time of 12 to 15 months during which assets are frozen.
 - * **Publicity**
 - * **Emotional Distress**

Probate Assets	Fee to Each	Probate Assets	Fee to Each
\$10,000	\$400	\$700,000	\$15,150
\$10,000	\$1,350	\$725,000	\$15,650
\$20,000	\$2,550	\$750,000	\$16,150
\$100,000	\$3,150	\$775,000	\$16,650
\$120,000	\$3,550	\$800,000	\$17,150
\$160,000	\$4,350	\$850,000	\$18,150
\$200,000	\$5,150	\$900,000	\$19,150
\$250,000	\$6,150	\$925,000	\$19,650
\$300,000	\$7,150	\$950,000	\$20,150
\$350,000	\$8,150	\$1,000,000	\$21,150
\$400,000	\$9,150	\$1,200,000	\$23,150
\$450,000	\$10,150	\$1,400,000	\$25,150
\$500,000	\$11,150	\$1,600,000	\$27,150
\$550,000	\$12,150	\$1,800,000	\$29,150
\$575,000	\$12,650	\$2,000,000	\$31,150
\$600,000	\$13,150	\$3,000,000	\$41,150
\$625,000	\$13,650	\$4,000,000	\$51,150
\$560,000	\$14,150	\$5,000,000	\$61,150
\$675,000	\$14,650		

Typical Statutory Formula

4% on the 1st \$15,000

3% on the next \$85,000

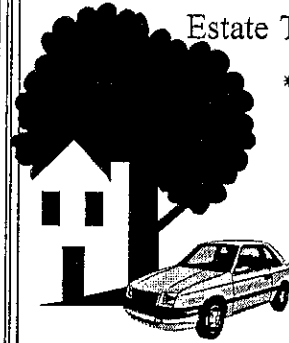
2% on the next \$950,000

1% on amount over \$1,000,000

3. Tax Reasons for Estate Planning

- * Eliminate capital gains taxes
 - * The estate planning necessary to avoid all capital gains taxes on appreciated assets involves use of a charitable remainder trust.
- * Reduce or eliminate estate taxes
 - * If your estate is valued at less than \$600,000, there are no tax reasons for drafting a trust. Of course, non-tax reasons for drafting a trust still exist. And in any event, you should always have a will. For estates valued at more than \$600,000, trusts will reduce or eliminate estate taxes.

Estate Taxes



- * The amount of your estate over \$600,000 is taxed at a rate of 37%. The amount of your estate over \$3 million is taxed at a rate of 55%.

650,000 Estate

- * IRS Taxes \$50,000
- * Your heirs write a check to IRS for \$18,500.



\$800,000 Estate

- * IRS Taxes \$200,000
- * Your heirs write a check to IRS for \$75,000.



\$2,000,000 Estate

- * IRS Taxes \$1,400,000
- * Your heirs write a check to IRS for \$585,000.



1996 Estate and Gift Tax Rates

TAX EQUALS		
If Taxable Transfer is:	This Amount PLUS	This Rate Of Excess Taxable Transfer
500,000.	155,800.	37
750,000.	248,300.	39
1,000,000.	345,800.	41
1,250,000.	448,300.	43
1,500,000.	555,800.	45
2,000,000.	780,800.	49
2,500,000.	1,025,800.	53
3,000,000.	1,280,800.	55
10,000,000.	5,140,800.	60
21,049,000.	11,764,800.	55

- NOTES:
- 1) The unified credit is \$192,800. The effect of the credit is to exempt up to \$600,000 from the unified transfer tax.
 - 2) In determining final estate tax from the above table, always subtract \$192,800.

Estate and Gift Tax Deductions and Exemptions

- * Marital Deduction
 - * You can pass to your spouse an unlimited amount of money or assets either during your life or at your death without paying any estate or gift taxes.

Estate and Gift Tax Deductions and Exemptions

- * \$600,000 Exemption
 - * You can pass to any number of individuals a total of \$600,000 worth of cash or assets either during your life or at your death without paying any estate or gift taxes.

Estate and Gift Tax Deductions and Exemptions

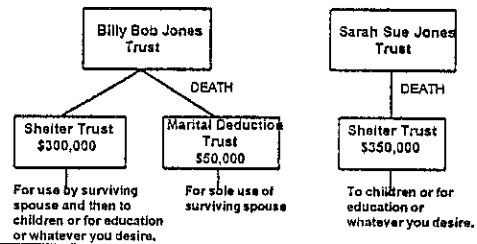
- * \$1 Million Generation Skipping Exemption
 - * You can pass to your grandchildren or great grandchildren a total of \$1 million worth of cash or assets at your death without paying any estate or gift taxes. If you use the \$600,000 exemption noted above, you would have \$400,000 left to pass to your grand or great grandchildren without paying any estate or gift taxes.

Estate and Gift Tax Deductions and Exemptions

- * \$10,000 Annual Exemption
 - * You can pass to any number of individuals \$10,000 a year during your life without paying any estate or gift taxes. For instance, you could give each of your children \$10,000 a year without paying taxes. Your spouse can do the same. Your children do not need to report the gift as income. If you give more than \$10,000 to one individual, the amount over \$10,000 comes off your \$600,000 exemption noted above.

Sample Trust

Assumptions: Couple's Estate valued at \$700,000. Billy Bob Dies First. Sarah Sue Dies six months later, after spending \$50,000.



Trust vs. No Trust

Using Assumptions From Previous Slide

	TRUST	NO TRUST
Estate Taxes:	-0-	\$18,500
Probate Expenses:	-0-	(Conservative) \$14,500
Amount Left To Heirs:	\$650,000	\$617,000

Special Types of Trusts

- * Charitable Remainder Trusts
- * Irrevocable Life Insurance Trusts
- * Qualified Terminable Interest Property Trusts
- * Qualified Personal Residence Trusts
- * Grantor Retained Trusts

Estate Planning Tools of the Trade

- * Research Library
- * Professional Journals
- * Transfer Documents
- * Tax Forms