

Estate Planning Basics

Presented by the APUU Endowment Board
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Disclaimer

(The hallmark of any good presentation!)

- Only attorneys working for law firms can provide legal advice.
- This brief session is intended as general education. It should not be considered legal advice.

Benefits of an Estate Plan

While You're Alive

- Allows things to get done if you are unable to do them yourself.

After You Pass Away

- Ensures your assets go to the right places.
- Makes settling your estate easier, faster, & cheaper.
- Reduces taxes, leaving more assets for loved ones.



True or False?

Your last will & testament has the final say on who will receive your assets.

False. Your last will & testament only comes into play for assets that do not automatically transfer via joint titling or beneficiary designation.

Basic Estate Plan Elements

Who gets what & how they get it

Account Titling



Beneficiary Designations



Last Will & Testament

Who takes care of your financial/medical needs if you cannot yourself.

Power of Attorney

Living Will & Health Care Surrogate

Who can speak to doctors and obtain medical information

HIPPA Authorization



Will = Probate = Courts

Advanced Estate Plan Elements

Revocable Trusts (aka Living Trusts)

- Usually created to avoid probate with assets that cannot transfer by joint titling or beneficiary designation (such as real estate & cars).
- Generally considered after age 60 for individuals with no living spouse.
- Can be amended or terminated until trust creator dies, then becomes irrevocable.
- Largely takes the place of a will.

Irrevocable Trusts

- Can be created during life, but usually come into being when a revocable trust becomes irrevocable at the creator's death.
- Usually created to control timing & amounts of distributions to loved ones after the creator's death.
- Can have a very short life (e.g. distribute all assets immediately then terminate) or a very long life (e.g. providing for well-being of grandchildren).
- Terms in trust document cannot be changed.

Types of Taxes That Can Impact Estate Plans

Federal Gift & Estate Taxes

State Gift & Estate Taxes

State Inheritance Taxes

Federal & State Income Taxes

Federal Gift & Estate Taxes

- Not a concern for most people based on current law.
 - \$13+ million lifetime exemption *per spouse* for value of gifts during lifetime or assets inherited after death.
 - Even if current tax law is allowed to expire at the end of 2025, the exemption amount per spouse will still exceed \$7 million.
- Note: Gifts exceeding \$18,000 each year from one individual to another must be reported on a gift tax return.
 - Exceptions: Gifts to charities, gifts made on behalf of someone directly to a school or medical institution.

State Gift & Estate Taxes

- Also not a concern for local residents based on current law.
- Kentucky & Indiana have no gift or estate taxes.

Kentucky Inheritance Tax

- Kentucky has no estate tax, but it is 1 of only 6 states to impose an inheritance tax, which is very similar (the deceased' estate pays estate taxes, while the beneficiaries pay inheritance taxes).
- Tax varies between 4% - 16%
- Exempt:
 - Spouses
 - Siblings (including half-siblings)
 - Children & grandchildren
 - Parents

Income Taxes

- Capital gains taxes are forgiven at death.
 - Cost basis of asset is reset to value on date of death.
 - Examples include real estate and investments held in brokerage accounts.
- Ordinary income taxes are not forgiven.
 - This refers primarily to retirement accounts such as IRAs & 401(k)s.
 - Distributions from these accounts will be added to the beneficiary's taxable income.

Most Common Estate Planning Mistakes

- Not aligning your assets with your wishes.
- Not making your estate plan tax-efficient.
- Not updating your plan representatives or beneficiaries as life circumstances change (e.g. marriage, divorce, death).
- Not checking the “per stirpes” box on beneficiary designations.
- Having a power of attorney or living will that is more than several years old.

Not Aligning your Assets with your Wishes

It is very common for bequests made in wills to go unfunded because there are insufficient assets available that are controlled by the will.

Example:

Assets & Liabilities

\$20,000
Bank Account

\$250,000
IRA

\$15,000
Funeral
Expenses

Estate Plan

\$5,000
each to
5 nieces

Will

100% to
my 2
children

IRA Beneficiary
Designation

Results

\$125,000 to each
child
($\$250k / 2$)

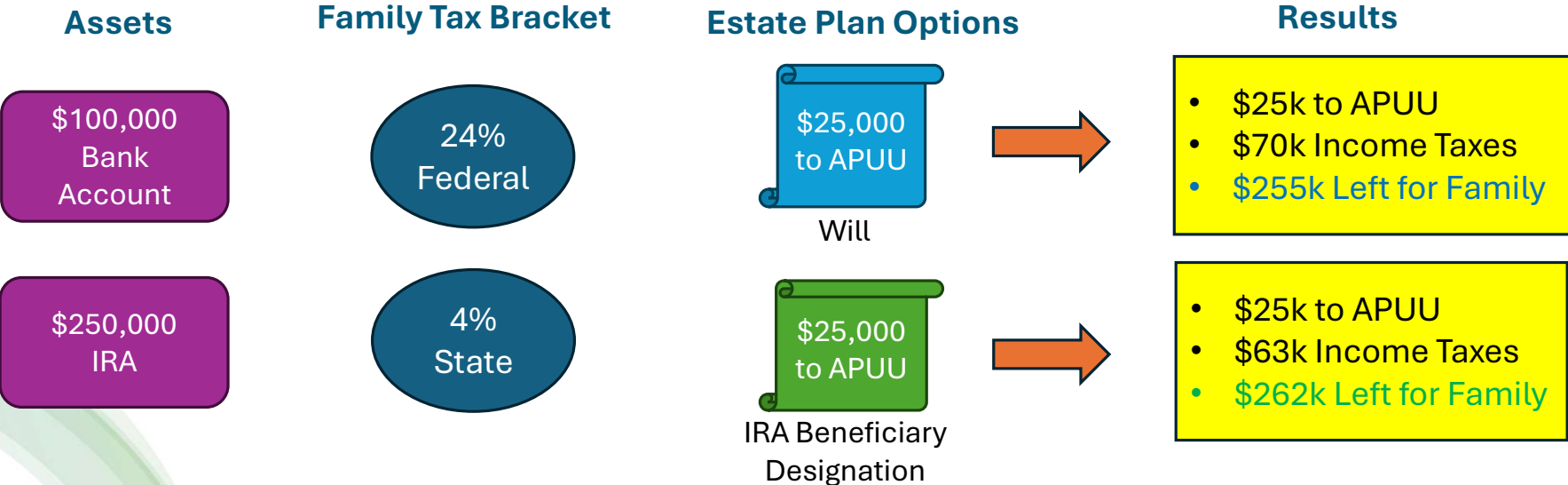
\$1,000 to each
niece
($\$20k - \$15k / 5$)

Not Making Your Plan Tax-Efficient

- Improperly structuring your estate plan will result in more taxes and less assets remaining for loved ones.
- Most tax-efficient types of assets for bequests:
 - **Low-income individuals:** Traditional IRA or non-retirement assets
 - **High-income individuals:** Roth IRA or non-retirement assets
 - **Individuals subject to Kentucky inheritance tax:** Traditional IRA or Roth IRA
 - **Charities:** Traditional IRA

Charitable Bequest Example

Making a charitable bequest from IRA assets rather than in your will results in more assets for family members.



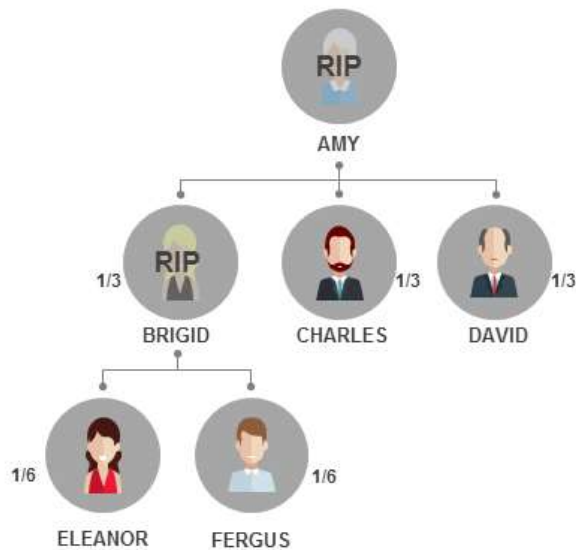
Not Updating Plan After Life Changes Occur

- Cautionary Tale (based on a true story)
 - Helen began working for a school system right out of college and stayed for her entire career.
 - Helen got married a few years after starting her career and stayed happily married until her death at age 70.
 - Helen designated her sister as sole beneficiary of her retirement plans when she started working and never updated the designations.
 - Helen's last will & testament stated that 100% of her assets were to go to her beloved spouse.
 - At Helen's passing, the entire balance of her retirement accounts (over \$1 million) went to her sister.

Not Checking the “Per Stirpes” Box

- When filling out a beneficiary form, there will usually be an option to designate “per stirpes” for each beneficiary.
- Per Stirpes is Latin, meaning “By Roots”.
- If a beneficiary dies prior to (or simultaneously with) the account owner, a Per Stirpes election designates that the beneficiary’s children will receive their share.

Per Stirpes Example



- Amy & Brigid die together in a car accident.
- With Per Stirpes option elected, Brigid's share of inheritance would go to Brigid's children, Eleanor & Fergus (Amy's grandchildren).
- If Per Stirpes option was *not* elected, the grandchildren would be cut out and Brigid's share would go to her brothers, Charles & David.

Having a Power of Attorney or Living Will More Than Several Years Old

- The more recent a document was drafted, the more likely it will be accepted without delay when needed.
- Institutions like banks or hospitals are concerned with liability of honoring a document that may not be the most current version.
- Kentucky passed legislation making it more difficult for institutions to reject or delay recognizing powers of attorney if drafted in 2020 or later.

Communicating Your Estate Plan

- Provide copies of estate planning documents to individuals named as representatives (e.g. Executor, Trustee, Agent).
- Store estate planning guidance in a location that is communicated to family members.
- Provide a copy of living will to healthcare provider.



Question Time!