ESTATE PLANNING DEMYSTIFIED

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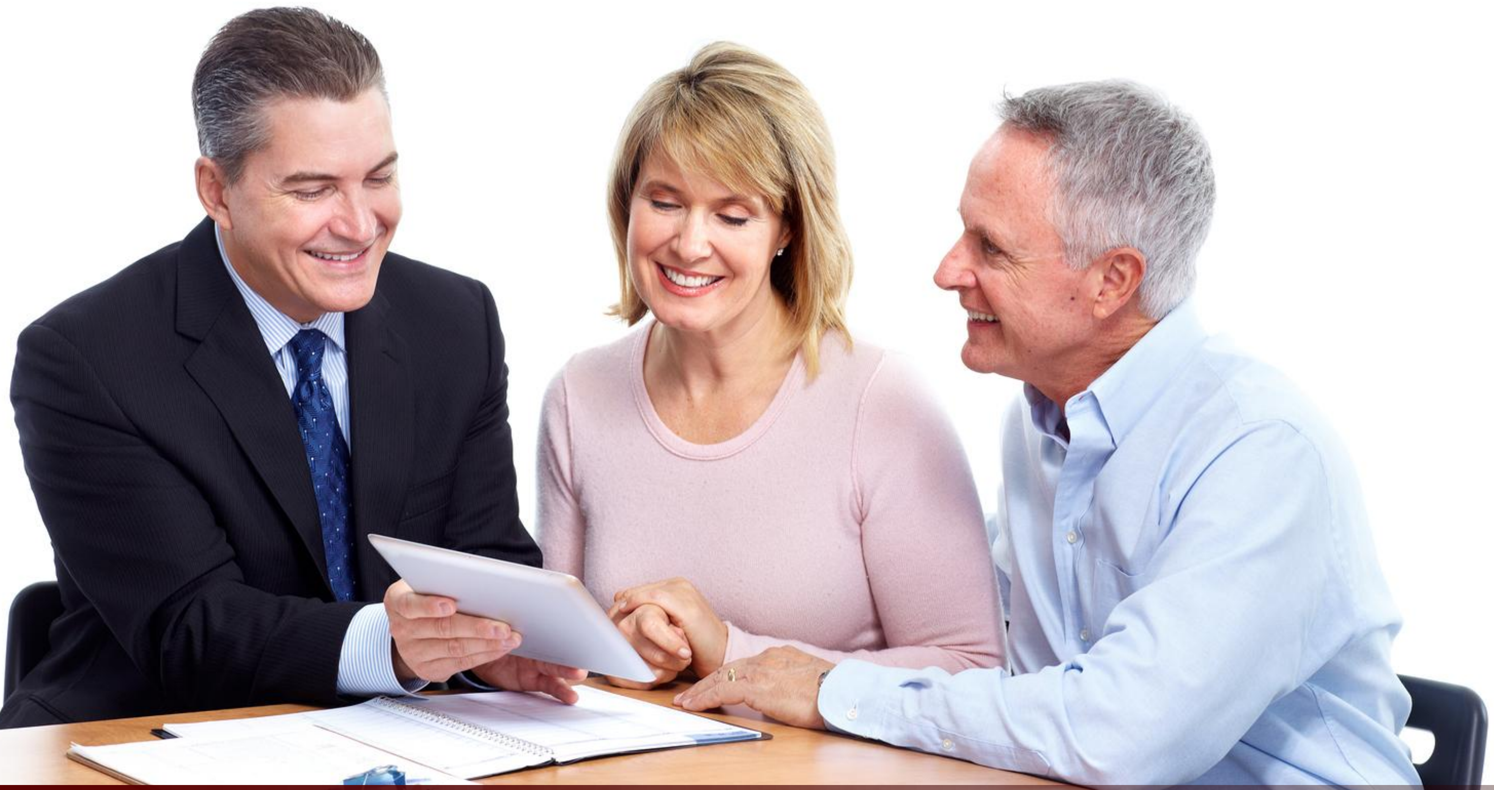

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When you understand the facts, you invariably take action because you know why estate planning is important.

With the above in mind, we would like to provide some foundational information about estate planning and the eventualities of aging.

The federal estate tax is a factor for people who have assets that exceed $5.34 million in value. There are various ways that you can arrange for the transfer of assets to your loved ones in a tax efficient manner.

Asset Transfer Vehicles

Estate planning involves the execution of legally binding documents. Asset transfer vehicles are going to be part of the equation.

Most people have heard of a last will. It is the most commonly used asset transfer vehicle in the field of estate planning. With a will you express your final wishes regarding the distribution of your monetary assets to your heirs after you die.

When you create a will, you should include the nomination of an executor. This is the estate administrator who will handle the business of the estate.

If you are the only living parent of a dependent child or adult, you should nominate a guardian who would be empowered to care for the dependent in the event of your passing.

A last will is not your only choice when it comes to arranging for the transfer of your financial assets. There are many other options, and the optimal choice will depend on your unique circumstances.

One commonly used alternative to a last will is a revocable living trust. Many people think that trusts are only for the wealthy. In fact, these trusts actually wouldn't address many of the concerns that wealthy individuals have.

Revocable living trusts enable the transfer of assets outside of probate. Probate is a legal process that your estate must pass through when you use a will to direct the transfer of property that you owned when you passed away.

Probate can be time-consuming, with routine cases taking multiple months. Complicated cases can take years. Circumstances that would complicate an estate case would include challenges by interested parties and the need to liquidate vast stores of property.

High Net Worth Individuals

If you are in possession of a considerable amount of wealth, you may benefit from the utilization of more advanced asset transfer vehicles.

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Generation-skipping or dynasty trusts, qualified personal residence trusts, charitable lead trusts, grantor retained annuity trusts, revocable life insurance trusts, and family limited partnerships can all be utilized to mitigate your estate tax exposure.While we are on the subject, it should be noted that there is an estate planning solution for people who are married to citizens of other countries in the form of qualified domestic trusts.

Long-Term Care

The majority of Americans are going to need long-term care eventually. Medicare will not pay for it. A stay in a nursing home or assisted living community is extremely expensive, and costs are rising year-by-year.

The average retirement nest egg is simply not enough to comfortably cover long-term care costs in many instances. As a

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result, Medicaid pays for most of the long-term care expenses that are incurred by senior citizens in the United States.

Because Medicaid is a need-based program, it takes careful planning to qualify for Medicaid without losing everything in the process. This is something to take into consideration when you are planning your estate.

If long-term care costs consume all of your resources, the cupboard will be bare when it comes to leaving inheritances to your loved ones.

Incapacity Planning

People often become incapacitated before passing away. To account for this possibility, you should include an incapacity planning component within your broader estate plan.

This is going to include the execution of legally binding documents called durable powers of attorney. With a durable power of attorney, you empower an attorney-in-fact or agent to make decisions on your behalf if you were to become incapacitated.

The person that you want to see making your medical decisions may not be the best money manager that you know. For this reason, you can execute two different durable powers of attorney: one for health care decision making, and one for financial decisions.

An incapacity plan should also include a living will. With this type of will, you express your wishes regarding the use of life-support measures like feeding tubes and respirators.

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Conclusion

As you can see, there are a lot of things to take into consideration when you are looking ahead toward the eventualities of aging. Action is required.

The typical layperson is probably not going to know how to proceed. The wise course of action is to retain the services of a licensed estate planning attorney. Your attorney will answer all of your questions and assist you as you create a customized plan that perfectly suits your needs.

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ABOUT THE AUTHOR

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Roy Litherland has been providing legal services in Santa Clara and Santa Cruz Counties continuously since 1975.

Roy has an undergraduate degree in accounting from Indiana State University, and a Juris Doctor degree from Indiana University. In law school he was a recipient of the Dean Faust Award and received awards and honors in income taxation and estate and gift taxation.

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