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This is the second part of a two-part series on real estate planning by JoeTaxpayer. Be sure to check out the first post What is Real Estate Planning. Earlier, we talked about designated beneficiaries. It is important to note that accounts that use designated beneficiaries to avoid apportionment and are not subject to public disclosure. That brings us to the next topic, trust. Trusts are also not part of the evidentiary process, but there are different types of trusts each with their own additional benefits. Special Needs Trust This fund allows you to reserve assets for a beneficiary who has a disability and would be disqualified from receiving government assistance if you inherited those funds immediately. Trust should be defined as an irrevocable funded fund while you are still alive. A spending trust is similar to special needs, except that it can be revocable or irrevocable. Its main purpose is to protect the beneficiary from their own reckless expenses. You can work with the lawyer by configuring it to specify the exact outings that will be allowed, such as one percent, fixed dollar amount, or some combination of the two. You can also specify the circumstances that allow additional takeouts, if any. I recommend using any rules in addition to a sparing amount of distribution. A beneficiary may request that a fund be broken if the conditions are against the public good. You want to protect your heirs, not rule their lives from the grave. Real estate tax exemption increased Not long ago, the real estate tax exemption amount was $1,000,000. It was raised to $3,500,000 this year, and the House just voted last week to keep current tax laws in place. As these numbers are subject to a vote and in any year can revert to as low as $1 million, I prefer to continue the discussion based on $1 million. Do you really want to rely on the kindness of legislators not to change the rules while you are near the end of your life and potentially unable to do any last minute planning? A million dollars used to mean you were rich, ready for life. It can now reflect a good middle-class lifestyle, including a home and insurance profits as part of one or both passing spouses. Consider a $2 million property. Without any planning, when you pass, your spouse inherits an unlimited amount without taxes due. When it passes, however, the property, valued at $2 million, will be taxed at 55% of the amount above $550,000 to the taxpayer. Bypass Trust This is a way to preserve this first exemption while still providing income to the surviving spouse during their lifetime. The mechanics of trust are simple. Trusts are to receive the amount of the exemption after the first spouse has passed. (Note – Trust can actually be written to specify receipt of the exemption amount in effect at the time of passage. Otherwise, you'd have an annual visit with a lawyer, who could get expensive.) This trust then offers the surviving spouse the to withdraw 5% or $5,000 whichever is greater each year. Additional amounts are allowed in specific situations, such as medical bills, but the right to cash is not unlimited. When the surviving spouse passes, the fund can be disbursed in full to the next beneficiary, with no tax due, regardless of the growth within the account. There is no advance on the basis, as occurred when the fund first received the assets, so a cost base is established and capital gains may be due after the sale of the assets. In the end, the cost of creating these funds is nothing compared to the potential real estate taxes that this process helps prevent. Irrevocable Life Insurance Trust The last kind of trust (yes, there is even more) that I will discuss is an ILIT, an Irrevocable Life Insurance Trust. There is a misconception out there that life insurance profits are not taxable. Because a spouse can inherit unlimited amounts of the deceased's property, this may be true in many situations, but not at all. If a couple passes at the same time, their heirs will discover that the profits from insurance policies are part of their assets. Or, even if they pass at different times, the profits of both policies are then part of the second spouse's estate. Given how cheap insurance can be, this is not such an unusual event. Get into ILIT. Instead of direct ownership of your insurance policies, ILIT is created for each spouse's insurance. He, not you, owns the policy, so when you pass, it's not part of your assets. It is also typical to create ILIT with provisions similar to the bypass trust, to provide first to the surviving spouse, and then to the next beneficiaries when passing. Gift Tax Exclusions This is a good place to add some discussion about the annual exclusion of gifts. If you are in a position that you are comfortable giving assets while you are still alive, keep in mind that the current exclusion is $13,000 per recipient. This may seem like a small sum, but once you count the potential recipients and include donation from you and your spouse, it can multiply quickly. Two children, their spouses and four grandchildren add up to eight recipients, or $208,000 in total that you can give each year. If any of these grandchildren are in college, you are welcome to pay your tuition bills at any amount, with no taxes due. As with any of the numbers I've presented, this number is subject to change over the years. It was $12,000 in 2008 and $13,000 for 2009 and 2010. Summarizing the purpose of trusts before closing this discussion, I would like to speak for a moment about the use of life insurance as part of estate planning. There are a number of circumstances in which an insurance policy can provide the necessary money for an inliquid real estate situation. It is not uncommon to find that in the of life your house is paid and comprises most of your assets. Hard to share a million-dollar house and a few hundred thousand dollars in cash and stock between two two beneficiaries. The same issue of indivisibility can occur when leaving the business to one child, but still want to treat the other fairly. In both situations, a well-planned insurance policy can help prevent a forced sale of a home or business. Keep in mind, numbers change, as does your own situation, over time. This article is my attempt to bring up some of the details of real estate planning that can help you better preserve the assets you've worked so hard to accumulate throughout your life. If you decide to seek the implementation of a fund, seek the advice of an experienced trusted lawyer. This is not something to bring to someone with general practice; it is not a simple matter to follow the latest laws in this area. A fund is a relationship in which administrators hold an individual's assets for specified beneficiaries. Although assets no longer belong to the person after being transferred, beneficiaries can lay down provisions for how assets are divided or distributed. For example, a person can create a trust fund for their 19-year-old child, but restrict their access to money until they turn 21 or get a college degree. Deeper definitionTrust is not an account, but rather a legal document that certifies ownership of assets. People rely on assets for many different reasons. Some people created funds to keep assets out of the probation before being passed on to beneficiaries. A probationary is the expensive and time-consuming process of resolving an individual's will. Others have set up funds to protect creditors' assets. Assets held in trust are tax-exempt on property, making it a useful tool for individuals with properties worth more than $5.64 million. A fund can also be used to provide instructions and income to a family member in need, or to provide regular financial support to any heir or associate. The document can be adapted to accommodate specific terms, such as those that indicate that beneficiaries receive goods or properties only if they meet certain requirements. Incentive funds can be created to attach ties to a child's inheritance. Approximately 30% of people with high net worth created funds with attached conditions. An administrator is the person or institution that oversees assets and assets in a fund. The administrator is compensated for this work, which is why complex trusts can be too expensive to set up and maintain. Examples of trustGenerally speaking, there are two primary types of trusts: living trusts and post-trusts, which may or may not be revocable. There are several subcategories, which help beneficiaries adapt trusts based on their requirements. Here's a look at the different types of trusts available: A revocable live is created while the beneficiary is still alive, and properties or assets are revocable. This means that they can be changed at the discretion of the donor. An irrevocable trust is a trust that cannot be changed once created, but comes with less taxes. Taxes. irrevocable kind of trust is testamentary trust, which is effective after the beneficiary has died. An educational fund is typically used to cover educational expenses. A spending fund is used when a beneficiary is unable to make good financial decisions. The administrator usually decides how best to spend the funds for the benefit of the beneficiary. A charitable fund is a kind of irrevocable trust that is set up for charitable purposes, in which properties and assets are given to one or more charitable organizations. A gift fund is typically used to transfer property as a gift. The administrator will distribute the assets to the beneficiary based on the terms described in the trust agreement. This option is best for people with assets that total at least $100,000 because of its high management costs. Having a trust fund offers some benefits, such as tax incentives, property protection and prevention of evidence in court after the death of a beneficiary. However, it is up to the individual to determine whether the benefits are worth the cost. Cost.