

# Estate Planning in a Changing Environment

Northwestern University

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# Intestacy

- A person who dies without a will dies “intestate”
- Intestacy statute in the decedent’s state of residence usually determines the disposition of the decedent’s property
- In Illinois:
  - one-half to the surviving spouse
  - one-half to surviving children
- Reasons to execute a Will:
  - Provide for a plan of distribution other than the plan imposed by the intestacy statute
  - Planning for minor children including nominating guardians
  - Identifying the preferred executor of the estate
  - Dealing with special needs of intended beneficiaries

# Federal Estate and Gift Tax

- Unlimited marital deduction
- Federal estate and gift tax exclusion – currently \$11.4 million
  - Indexed for inflation
  - Portable – Unused exclusion can transfer to a surviving spouse

# Illinois Estate Tax

- \$4 million exclusion
  - Not indexed for inflation
  - No portability – use or lose



*"It's a little less amusing when you hear your kids calling it 'the death tax.'"*

CN  
COLLECTION

# GST Tax

- A tax on transfers to beneficiaries more than one generation removed from you – your grandchildren.
- 40% flat tax rate – but
- \$11.4 million GST exemption
  - Indexed for inflation
  - Not portable

# Estate Planning Documents

- Revocable Trust
  - Can amend or revoke at any time
  - Add or remove assets at any time
  - Provide for payment of debts, taxes, expenses
  - Provide for distribution of real and tangible personal property
  - Provide for gifts to charity
  - Provide for outright distribution or distribution in trust
    - benefits of outright distribution
    - benefits of distribution in trust
    - options using continuing trusts
      - in trust until the beneficiary attains a certain age or ages
      - in trust for life
      - in trust for generations
      - GST planning
  - Selecting a successor trustee



# Estate Planning Documents

- The Will
  - Can be used in place of the revocable trust or in conjunction with the revocable trust (pourover will)
  - Public record in Illinois
  - Requires probate administration in court
  - Necessary to nominate guardians for minor children
  - Spoiler: the “reading of the Will” seldom happens



M. J. Hill  
CIN

# Disability Planning Documents

- Power of Attorney for Property
  - Control of your assets without appointment of a guardian
  - Agent acts when you cannot
  - One agent at a time
- Power of Attorney for Health Care
  - Health care decisions, including end-of-life decisions
  - Agent acts when you cannot
  - One agent at a time
- Living Will

# Charitable Planning

- Lifetime Gifts:
  - Outright gifts
  - IRA charitable rollover
    - Must be age 70 ½ or older to qualify
    - Up to \$100,000 per year to public charities only
    - Counts against the Required Minimum Distribution
  - Charitable gift annuities
    - One life or joint lives
    - Cash or marketable securities
    - Deferral of gain on appreciated property
    - Charitable deduction for the total value of the contribution, reduced by the present value of the annuity

# Charitable Planning

- Gifts at Death
  - Life Insurance
  - Gifts from Tax-Deferred Accounts
    - A double benefit:
      - » Passes free of estate tax
      - » Charitable organizations take free of income tax
  - Gifts under Trusts and Wills
    - Work with the charitable organization to properly identify the organization/program/purpose of the gift
    - Make sure the charitable organization can fulfill donor intent



Leo  
Collins

*"Everything I have, son, I have because your grandfather left it to me. I see now that that was a bad thing."*

# QUESTIONS?

Patrick Bitterman  
Quarles & Brady LLP  
300 North LaSalle Street, Suite 4000  
Chicago, IL 60654  
(312) 715-5122  
patrick.bitterman@quarles.com

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