

LESSON PLAN

LESSON TITLE: Estate Planning

INSTRUCTOR:

TEACHING METHOD: Informal lecture & discussion

INSTRUCTIONAL AIDS: See bibliography

CLASS TIME: 2-3 hours depending on interactive teaching style

LESSON OBJECTIVE: To provide participants with a fundamental understanding of estate planning. The desired learning objectives listed below identify the skills and knowledge participants should be able to acquire by attending this seminar.

- Prepare, maintain, and update a will
- Identify the purpose of a living will
- Describe the purpose of a Letter of Last Instructions
- Identify pertinent estate tax laws
- Discuss the advantages and disadvantages of a living trust
- Describe the documents and procedures required to access survivor benefits and Social Security benefits
- Maintain and update important records
- Evaluate estate planning options

LESSON PLAN MAIN TOPICS

1. What is Your Estate
2. Wills
3. Living Wills
4. Medical Durable Power of Attorney
5. Letter of Last Instructions
6. Probate
7. Estate Tax Laws
8. Living Trust
9. Durable Power of Attorney
10. How to Apply for Social Security Benefits
11. Survivor Benefit Plan
12. Important Papers
13. Conclusion

LESSON OUTLINE

A) INTRODUCTION

B) SUBJECT MATTER

I. What is Your Estate

II. Wills

A. Dying Without a Will

B. Functions of a Will

C. Information to Prepare the Will

D. Maintaining Your Will

E. Updating Your Will

III. Living Wills

IV. Medical Durable Power of Attorney

V. Letter of Last Instructions

A. Your Assets

B. Location of Assets

C. Funeral Arrangements

D. Maintaining and Updating Your Letter of Last Instructions

VI. Probate

A. Avoiding Probate

B. Bank Accounts

C. Beneficiary Named Assets

- VII. Estate Tax Laws
 - A. Calculating the Value of Your Estate
 - B. Estates Valued Under \$600,000
 - C. Avoiding Taxes
 - D. A Last Word
- VIII. Living Trust
 - A. Why You Might Want a Living Trust
 - B. Disadvantages of a Trust
 - C. Variations on Trusts
- IX. Durable Power of Attorney
- X. How to Apply for Social Security Benefits
 - A. If You Are Not Getting Social Security Benefits
 - B. If You Are Already Getting Social Security Benefits
 - C. How Much Will You Get?
- XI. Survivor Benefit Plan
 - A. Active Duty
 - B. Retired
- XII. Important Papers
- XIII. Conclusion

C) REVIEW

TEACHING PLAN

INTRODUCTION

ATTENTION:

MOTIVATION:

OVERVIEW: Main Topics

TRANSITION:

SUBJECT MATTER

*** All information accurate as of January 1995.**

- I. What is Your Estate? Your estate includes all your property, minus any debts you owe.
- II. Wills. One of the important tasks that you must do for personal and family readiness is to have a will prepared. A will is a written instrument that directs the disposition of your assets at death. It makes sure that your children have someone to take care of them and that your estate goes to the people you designate.
 - A. Dying Without a Will. If you die without a will, an administrator is appointed by the court to liquidate your estate in accordance with the statutes of that state. A commission, approximately 3 percent of the value of the estate, is charged to cover the administrator's fee. If you have minor children, a guardian must be appointed for each, representing another cost to the estate.

Dying without a will gives the state the complete right to determine how your estate will be divided.

In some states the court gives half the estate to the surviving spouse and half to the children and appoints a guardian to watch over the children's finances until they reach the age of majority (usually 18). Other states divide the personal property equally but give only one-third interest in any real estate to the spouse.

If you have no children and have an estate worth more than \$50,000, your spouse may have to share your assets with a distant relative.

B. Functions of a Will

Reduce the tax liability on the estate of the deceased.

Transfer assets to particular people.

Choose the executor, trustees, and other officials who will administer the estate.

C. Information to Prepare the Will

Prepare a list of major assets. All your assets will not be listed in the will, but will give your lawyer an idea of the size of your estate.

List your beneficiaries (the people you want to receive your assets). Have a list of alternate beneficiaries to whom the estate will go in case your primary beneficiaries die before you do.

Name an executor (person or bank who will oversee the collecting and paying of bills and the closing of your estate).

Name a primary and an alternate guardian for your children.

Indicate how you want your money distributed. Use percentages instead of dollar amounts. You will have no way of knowing exactly how much money you will have when you die, so stipulate what fraction will go to whom. Example: "50% to my wife, 25% to my invalid brother, and 25% to be divided among my children."

List any specific items that you want to give to certain people (your diamond ring to your niece).

D. Maintaining Your Will. Once the lawyer has the will drawn up and you have checked it for accuracy, sign the original and put it in a place where it will be protected from fire, flood, or other damage. Many people allow their attorney to keep the original will or file it with the County Register of Wills office. Be sure to maintain a copy for your records. Do not put the original of your will in your own safe deposit box. Upon your death the box will be sealed (even if it is jointly held) until a court order is obtained to open it. Do, however, let your family know the location of your will.

E. Updating Your Will. Some circumstances that often cause people to consider changing a will are:

- moving to another state
- getting married or divorced
- having children
- having a substantial change in assets
- the death of heirs, executors, or guardians named in the will.

You update a will either by writing a new will or by adding a codicil, which is a legal amendment to a will. A codicil should be drawn up by your attorney, witnessed, and signed.

III. Living Wills. A living will is a document you sign telling your doctor not to use artificial life support measures if you become terminally ill. Your living will does not go into effect until two doctors agree in writing that you have a terminal condition as defined by state law, and you are unconscious, comatose or otherwise incompetent for seven consecutive days. Living wills may also be used to stop tube feeding and other forms of artificial nourishment, but only if your living will clearly says so and you have a terminal illness. If you are able to swallow food and/or fluids, your living will will not prevent you from being fed. In any case, artificial nourishment will be used to the extent necessary to relieve pain.

IV. Medical Durable Power of Attorney. A medical durable power of attorney is a document you sign naming someone to act as your health care agent. As your agent, this person has the right to make medical decisions for you if you become unable to make them yourself. If you put guidelines into your medical durable power of attorney for your agent to follow, it will tell him or her what you really want, otherwise, the ultimate decision rests with your doctor. Please be aware that in some states a durable power of attorney can be effective immediately upon signing, even though you are competent, or to be effective upon your becoming incapacitated. Be sure to understand which type you are signing

V. Letter of Last Instructions. A letter in your handwriting, signed, and usually given to the executor, or placed with your will, dictating how your assets will be distributed. It is also used to pass along any messages and directions you have about your estate and your funeral.

A. Your Assets. The letter of last instructions provides a current inventory of your assets and instructs the executor in the disposition of your personal property (both valuable and sentimental) without being made public in the formal will.

- B. Location of Assets. It is important to include information in your Letter of Last Instructions about the location of all your assets, such as various savings accounts and accounts at brokerage firms.
- C. Funeral Arrangements. Leaving a specific set of instructions for your funeral can relieve stress on your survivors and keep costs to a minimum. Many times, loved ones feel they must pay more than they can afford for funeral arrangements out of respect, love, or needless guilt. If you make those decisions ahead of time, that burden is lifted from them.

The cost of an average funeral ranges from \$4,000 to \$6,000 and can rank right after your house and car as the third largest expense you will incur in your lifetime.

After deciding on your budget, it is a good idea to arrange for the various funeral services. Be frank and firm about what you can spend and do the best you can. Don't be afraid to ask the funeral director to explain all costs to you. Here are examples of services funeral homes offer:

- Transporting the body to the funeral home
- Embalming
- Preparation of the body
- Help in the selection of flowers for the ceremony
- Help in the selection of the headstone or plaque
- Help in completing the forms to acquire a veteran's flag
- The hearse
- Limousines for the family
- Facilities for viewing the body
- Memorial cards and guest book
- Transportation of the body to the cemetery. Many locations require police escorts whose costs you must cover.
- Tents and chairs for guests at the burial
- Copies of the death certificate
- Help filing claims for life insurance policies
- Notifying newspapers
- Notifying organizations to which the deceased belonged

Planning the services to be performed can be complex. Here are some of the things you will need to think about when planning the service.

- Do you prefer an open or closed casket?
- Do you want the service indoors, graveside or both?
- Should the services be ornate or simple?
- Who will conduct the service: your religious leader, the funeral home?
- Who will speak at the service?
- Do you want music? Which selections?

D. **Maintaining and Updating Your Letter of Last Instructions.** Make sure that the appropriate people know the location of your Letter of Last Instructions, and be sure to keep it up to date by revising it frequently. **Revise the letter a minimum of once a year, but preferably when any significant change occurs**, like when you purchase a new car or when you have another child, for instance.

VI. **Probate.** Probate is the legal process of “proving” a will is valid under the law in the state where you reside. All property you leave through a will undergoes probate. In many states, probate has become notorious both for long delays and high costs in legal and administrative fees. For some people, avoiding probate is a major focus of estate planning. However, despite frustrating delays, probate does serve useful purposes. If your estate has debts or claims from creditors, probate provides a fairly efficient forum for settling those claims when compared with the alternative--a lawsuit.

A. **Avoiding Probate.** If you wish to avoid probate, the only way to do so is to leave your property to your heirs by means other than a will. If the ownership is properly structured, assets you own jointly will automatically go to the surviving owner. A **joint tenancy with right of survivorship** is one such method. In this instance, each partner has half ownership and property passes directly to the survivor when one owner dies. However, when the second owner dies, a will is required to transfer the assets.

B. **Bank Accounts.** Be warned that joint bank accounts may be temporarily frozen while the state reviews the estate. Therefore, the survivor should not plan on receiving this money until the state completes its assessment.

C. **Beneficiary Named Assets.** Your will does not affect assets for which you name a beneficiary, such as trusts, IRAs, pensions, annuities and life insurance policies. These assets will pass directly to whomever you name and are not subject to probate.

- VII. Estate Tax Laws. Every reference suggested consulting with a lawyer before taking specific actions in this arena. Without proper planning, a substantial portion of your estate may go for taxes.

(Hand Out Calculating the Value of Your Estate)

- A. Calculating the Value of Your Estate. Preparing a written inventory and valuation of your property is essential for thorough estate planning. After you have completed the personal inventory in Part I, you will have your net worth. Part II itemizes other deductions that will affect the calculation of your final estate figure. Then you can determine the value of your taxable estate in Part III.
- B. Estates Valued Under \$600,000. At this writing, federal gift and estate taxes apply only to estates larger than \$600,000 that are not being left to a spouse. An unlimited amount may now be left to a spouse tax-free.
- C. Avoiding Taxes. You may want to avoid taxes for two reasons: 1) For those estates valued over \$600,000 and 2) Some states' levy taxes, often on amounts smaller than \$600,000. So you may not be out of the woods just because your estate will not owe the federal tax. It takes a lawyer to cut your tax bill without mishap but some common methods are listed below.

Make gifts while you are alive. Up to \$10,000 a year can go to as many individuals as you choose, tax free. You do, however, need to report these gifts to the IRS. To be eligible for tax-free status, the gift must be considered by the IRS as having present interest, meaning that the recipient has an immediate and irrevocable complete right to the property. Such gifts are usually not taxed on the donor. Gifts received are also tax free, but any later income earned from the gift is taxable.

Give away your life insurance policy. Give the policy to your spouse, your child, or an irrevocable trust. That takes the proceeds out of your estate (unless you die within three years of making the gift; then the proceeds, and taxes, come back). To keep the policy out of your estate, you cannot continue to pay the premiums. Instead, the new owner has to pay.

Marry. No estate tax is levied on property given or bequeathed to a spouse. However, whatever is left (over \$600,000) can be taxed in the spouse's estate when he or she dies.

Give money to charity. Money given--or left--to charity reduces your estate, hence your estate tax.

D. A Last Word. Estate tax planning is extremely complicated. Only an experienced estate-planning attorney can walk you through unscathed.

VIII. Living Trust. A living trust is a legal document that can be used to distribute your assets during and after your life. Setting up a living trust is similar to setting up a will--you name a trustee (instead of an executor), who can be yourself, another individual, or a bank. You then define explicit terms for the current and future management of your assets.

A. Why You Might Want a Living Trust

To avoid probate. Property in trust goes directly to the beneficiaries when you die, without pausing in the probate court. It is often a fast and cheap way of distributing an inheritance. The value of the property can be divided in any way you like. Say, "one-third to each of my three children" or "80 percent to my husband and 10 percent to each of my children." You are not required to leave specific properties to specific people. You can specify that children or grandchildren receive specified amounts of your estate at certain ages. You can also direct money to children or grandchildren of a previous marriage.

To have someone handle your money if you're incapacitated. You might be ill. You might have grown permanently vague. If you made no provision for managing your money, your family will ask a court to name a guardian. But it's better to choose someone yourself. You can handle this with a durable power of attorney, which names an agent to act for you. Alternatively, if you set up a trust, you pick someone to succeed you as trustee. The trust should specify when your trustee can move to take over your affairs. Give yourself a lot of latitude, to throw money at a lost cause, or hunt for gold in Alaska. The law lets you waste your assets however you like, as long as you know that you may be doing something dumb. It's only when your thinking or acting capacity goes that your trustee is empowered to act.

Provide income or asset management for a handicapped loved one.

To test the ability of a professional money manager. If you don't feel good about running money yourself, or don't have the time for it, an investment-management firm or bank trust department will handle it for you. The bank can act simply as a money manager while you remain trustee--usually, the best arrangement. Or you can name the bank trustee.

To keep matters private. Wills are public documents, and so are court hearings to establish mental incompetence. Trusts are not.

B. Disadvantages of a Trust. A living trust is not for everyone. In general, the older you are and the larger your estate, the more advantageous a living trust. If your estate is small or you are younger, a will may be sufficient. A living trust will not save income or estate taxes. As long as you control the property, the income will be taxed to you. To avoid the tax, you would have to give away the property, permanently. That is an error for anyone but the very rich. Your lawyer is the best person to help you decide which estate settlement tool is best for you at various stages of your lifetime.

C. Variations on Trusts

Revocable Trust: You remain in control of the funds, and you can even be the trustee. Because you remain in control, you continue to pay taxes on the trust income. You can end (revoke) this kind of trust whenever you wish.

Irrevocable Trust: You give up all control of the funds in order to receive tax advantages. You cannot end this type of trust once it is in force. The money or property is now controlled by the trustee, who must pass the funds on to the beneficiary as directed by the trust agreement.

Testamentary Trust. You set this up by leaving directions in your will. The trust becomes effective upon your death.

IX. Durable Power of Attorney. A durable power of attorney, recognized in most states, is a document by which you appoint a legal representative to manage your affairs if you become incapacitated. It lets someone act for you if you are judged senile or mentally disabled, if you fall into a coma, or if illness or accident damages your brain. A durable power of attorney lasts, while other powers of attorney do not. As long as you are mentally capable, you can revoke a durable power whenever you like.

X. How to Apply for Social Security Benefits

- A. If You Are Not Getting Social Security Benefits. You should apply for survivors benefits promptly because, in some cases, benefits may not be retroactive. You can apply by telephone or at any Social Security office. They will need certain information to process your application. It is helpful if you have it when you apply. But do not delay applying if you do not have everything. The people at Social Security will help you get it. They need either original documents or copies certified by the agency that issued them. The information needed includes:

- Your Social Security number, as well as the worker's
- Your birth certificate
- Your marriage certificate if you are a widow or widower
- Your divorce papers if you are applying as a divorced spouse
- Children's birth certificates
- Children's Social Security numbers, if available
- Deceased worker's W-2 forms or Federal self-employment tax return for the most recent year
- Your checkbook or savings passbook if you want your benefits deposited directly into your account
- Death certificate (**if funeral director has not already notified Social Security**)

- B. If You Are Already Getting Social Security Benefits. If you are getting benefits as a wife or husband on your spouse's record when he or she dies, you should report the death to Social Security and they will change your payments to survivors benefits. If they need more information, they will contact you.

If you are getting benefits on your own record, you will need to complete an application to get survivors benefits. Call or visit Social Security and **they will check to see if you can get more as a widow or widower**. They will need to see your spouse's death certificate to process your claim.

C. How Much Will You Get? The amount of your benefit is based on the earnings of the person who died. Basically, the more he or she paid into Social Security, the higher your benefits. The amount you will get is a percentage of the deceased's basic Social Security benefit. The percentage depends on your age and the type of benefit you are eligible for. Here are the most typical situations.

- Widow or widower age 65 or older: 100 percent
- Widow or widower age 60-64: About 71-94 percent
- Widow any age with a child under age 16: 75 percent
- Children: 75 percent
- Widow under 60 without children: 0 percent

XI. Survivor Benefit Plan (SBP). The Survivor Benefit Plan is an option you can elect upon retirement. Retired pay stops when you die; SBP helps make up for that loss of income. It pays your eligible survivors an inflation-adjusted monthly income. SBP premiums and benefits depend on what we call the "base amount" that you elect as the basis of your coverage. Your base amount can be your full monthly retired pay or just a portion, down to as little as \$300. Full coverage means your full retired pay is your base amount. Your base amount is tied to your retired pay. When retired pay gets a cost-of-living adjustment, or COLA, so does the base amount, and as a result, so do premiums and benefits.

If you are on active duty, retirement-eligible and have a spouse and/or children, they are automatically protected under SBP at no cost to you while still on active duty. When you retire, you may elect any of several SBP options or none at all.

The Casualty Assistance Officer will assist your family members in attaining their SBP (if elected) and other benefits, some of which are detailed below.

A. Active Duty

Notification of Death. The family will be notified by an Air Force officer if the death occurs at work. If the member should die while at home, the family must notify the member's Commanding Officer or the most senior member of the chain of command.

Death Gratuity Pay. Six times the base pay not to exceed \$6,000.

Servicemen's Group Life Insurance. Paid to all those who have made election.

Veterans Group Life Insurance. Not paid.

Survivor Benefit Plan. Paid to those over 20 years of service (automatic).

90 Days BAQ/Base Housing. Afforded to all.

Shipping of Household Goods and Storage. One year from date of death for storage and shipping.

Dependency and Indemnity Compensation (VA). Monthly tax free payments made if death is considered service related.

Documents Required in Case of Death. Death certificate, marriage certificates, birth certificates of any children, any divorce decrees.

B. Retired

Notification of Death. The next-of-kin must notify the Casualty Assistance Representative (CAR) at the nearest Air Force base.

Death Gratuity Pay. Paid only to those within 120 days of retirement.

Servicemen's Group Life Insurance. Paid to all those who made an election and within 120 days of retirement.

Veterans Group Life Insurance. Paid to those who made an election (effective on the 121st day after retirement).

Survivor Benefit Plan. Paid only to those who made election prior to retirement.

90 Days BAQ/Base Housing. Afforded to those within 120 days of retirement.

Shipping of Household Goods and Storage. Afforded to those who die within 120 days of retirement.

Dependency and Indemnity Compensation (VA). Monthly tax free payments made if death is considered service related.

Documents Required in Case of Death. Death certificate, marriage certificates, birth certificates of any children, any divorce decrees, DD 214.

- XII. Important Papers. Without a doubt, the most important aspect of developing a sound financial plan is to prepare the documents necessary to put your plan into action. Equally important is to insure that your plan can be carried on, by your survivors, after your death.

You should prepare (**and keep current!**) a list of important papers and documents -- and let someone else know exactly where they are located. A copy of the list should be maintained in a secure location known to you and your spouse, as well as your mature children.

It would be wise to make a duplicate copy of all your important papers and documents. This relatively simple precaution provides you with copies to work on while leaving the originals in their secure location.

The following is a recommended list of important papers and documents which you should, as a bare minimum, prepare and **make a dedicated effort to keep up-to-date:**

- A. A current will for both you and your spouse. Having a will has already been discussed, but it is extremely important that someone other than you and your spouse know where the original (as well as copies) of these documents are located.
- B. A power of attorney for both you and your spouse so that each of you has the ability (and the authority) to act on behalf of the other in the event of an emergency. It is also wise to have yet another power of attorney authorizing a third party (such as an adult child) to act in the event both you and your spouse are incapacitated.
- C. A copy of all birth and death certificates of all immediate family members. If you no longer have copies of the originals, you should secure certified copies.
- D. At least one copy of your present marriage license, as well as a copy of any previous marriage licenses.
- E. At least one copy of any divorce decrees from previous marriages of you and your spouse.
- F. A list of the social security numbers issued to you, your spouse and your children. You should also indicate the location of the social security cards issued to you and your spouse.

- G. All original copies of property and real estate deeds, mortgage liens, titles, etc. It would be extremely prudent to have extra certified or Xeroxed copies of these documents.
 - H. Registration papers, tax certificates, and titles for all automobiles, boats, recreation vehicles, etc.
 - I. A copy of all life insurance policies on yourself, your spouse, as well as any policies on your dependents.
 - J. A list of all financial security and investment items -- it is important to indicate the location of these security items.
 - K. A list of all checking and savings accounts, as well as all safety deposit boxes.
 - L. A copy (or certified copy) of all church records such as marriage certificates, baptism records, etc.
 - M. A copy of all important military records.
 - N. Copies of all other valuable or important papers which would be difficult to replace if they were lost, stolen, or destroyed.
- XIII. Conclusion. Whether you need only a simple will or are considering a complicated trust, do not cut corners on getting good advice. Many of the aspects discussed in this class are only an introduction and many times require an experienced estate planner. To find one, ask friends, your accountant or the trust officer at your bank, or contact the local bar association. Look for someone with established industry credentials -- professional designations such as Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), or a masters degree in financial planning.

It is important to feel comfortable and confident in your professional's abilities. After all, you will be sharing with this person details of your finances and your plans for the future of your loved ones.

Good estate planning will bring you peace of mind. A well-thought-out estate plan can be as welcome a legacy as the property you pass on.

Good luck!

REVIEW & SUMMATION

1. Review main points.
2. Answer any questions.
3. Distribute critiques.

Lesson plan developed by Tracy Heater, Peterson AFB, CO.

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CALCULATING THE VALUE OF YOUR ESTATE

Part I: Personal Inventory

A. Assets

1. Cash, savings, bank accounts _____
2. Mutual funds, stocks, bonds,
CDs, other investments _____
3. Your home
(Current market value) _____
4. Other real estate
(Current market value) _____
5. Individually-owned
personal property
(Cars, jewelry, collectibles) _____
6. Your share of jointly-held property _____
7. Net equity in your own business _____
8. Life insurance proceeds _____
9. IRAs, retirement plans, annuities _____
10. **Total Assets** _____

B. Debts

1. Personal property debts
(Major credit cards, current bills) _____
2. Mortgage loans _____
3. Other consumer loans _____
4. Income and property taxes _____
5. **Total Debts** _____

C. Net Worth

1. Total assets (Line A10) _____
2. Total debts (Line B3) _____
3. **Net Worth** _____
(Line 1 minus line 2)

Part II: Deductions

A. Estate Settlement Costs

1. Administrative expenses
(Attorney, accountant and executor
fees, probate fee, appraisals) _____
2. Funeral expenses _____
3. **Total Settlement Costs** _____

B. Other Deductions From Your Estate

1. Marital deduction _____
2. Charitable bequests _____
3. **Total Deductions** _____

Part III: The Taxable Estate

1. Net worth
(Total from Part I, line C3) _____
2. Taxable gifts
(Those made during your lifetime) _____
3. Total deductions
(Add lines A3 and B3 from Part II) _____
4. **Taxable Estate** _____
(Add lines 2 and 3, then subtract
from line 1) _____*

* If this figure is greater than \$600,000 -- the amount at which the federal estate tax is triggered -- you may wish to seek professional advice for ways to reduce your estate taxes.

