

**THE FIRST FIFTEEN ISSUES TO CONSIDER
FOR YOUR ESTATE PLANNING**

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An individual or family should consider the following fifteen (15) items when analyzing a basic estate plan:

1. Who are the heirs? There are tax implications and non-tax implications to consider. Tax implications include analysis of issues such as the marital credit, generation – skipping taxes, rate differentials as well as gift, timing and deduction factors. Non-tax implications include personal issues, such as what individuals, trusts, foundation or other entities should receive distribution of cash or other property. Provisions for disabled individuals, or other special needs ramifications, should also be discussed.
2. How will the estate be distributed? Distribution via an intestate estate (no will or other instrument) means your heirs are determined by statute. The process is complicated and expensive. Likewise a probate, the court process by which your assets are distributed by a will, is lengthy and costly (but preferred to an intestate distribution). A small estate affidavit may be used if the assets subject to probate are \$100,000 or less. Trusts are the preferred estate distribution instrument today. Trusts may be revocable or irrevocable, and may be created during your lifetime or upon your death. Some forms of property ownership provide for automatic property succession, such as joint tenancy or tenants by the entirety. There are also “contractual” methods to transfer your assets – life insurance, retirement plans (including IRAs) and annuities, to name a few common devices.
3. Who will be your executor/trustee? Will your executor/trustee be an individual or a corporate type of trustee, such as a bank? If an individual, a relative? Your accountant or attorney? What are the fees and practical issues you need to consider?
4. Who will be your minor or disabled child’s guardian if you were deceased or incapacitated?
5. What about estate taxes? There are exemptions you should know about. The rates are very high, up to 47% in 2005. Any analysis of your potential estate must include the issues of gift tax, generation skipping tax, state estate tax (and the “de-coupling” trend) and basis rules.

6. Basic Estate Planning Technique #1-The Marital Trust/Credit Shelter Trust. The concept is to utilize your and your spouse's general exemptions in one interrelated plan. If a spouse is not a US citizen, a "QDOT" may be necessary. There are many variations of The Marital/Credit Shelter Trust plan – your advisor needs to consider the income needs of the surviving spouse, who the beneficiaries are and the goals of the survivors, among many other issues.
7. Basic Estate Planning Technique #2 – Generation Skipping Trusts. This is a complex subject. Distribution criteria, incentives, fiduciary selection and non-tax advantages need to be studied.
8. Basic Estate Planning Technique #3 – Gifts. You may avail yourself of annual exclusions and a lifetime exclusion.
9. Basic Estate Planning Technique #4 – Charity. Consider a remainder trust, a lead trust and/or a foundation.
10. Basic Estate Planning Technique #5 – Irrevocable Life Insurance Trusts ("ILIT"). Life insurance owned by an ILIT may be used to pay estate taxes or for many other purposes. Be careful, the rules are complex.
11. Basic Estate Planning Technique #6 – Family Investment LPs and LLCs. Another great technique with complicated rules.
12. Basic Estate Planning Technique #7 – Other Trusts. An "alphabet soup" of possibilities, depending on the facts and circumstances – GRUTS, GRATS, QPRTs, etc.
13. The importance of Durable Powers of Attorney and Living Wills. If you become incapacitated, your pre-designated agent may carry out your business affairs, and make important decisions regarding your health care.
14. Long-Term Care Insurance. What is it? Who does it cover? What will it pay for? Is it a good investment?
15. Government Assistance. What will Medicaid/Medicare pay for?