

VIDEO TRANSCRIPT: The Essential Guide to Estate Planning

RECORDING DATE: December 18, 2023

Bruce Van Vreede:

Good morning everybody! We're back again with the final installment of our video in the series talking about trusts, estates, and gifts with Mark Kassens, who leads that practice for Brady Ware.

I'm Bruce van Vreede, Director of Marketing. Mark we're on to Estates so why don't you give us a little bit of feel for what we're going to talk about.

Mark Kassens:

Sure! All right, so the number one lesson at the very least: please have a will, and not just have a will, but make sure it's signed and witnessed so it's an official document. So if a person dies without a will they're giving up all of their control over their Estates, over their property, over their wealth to the mercy of the courts and to state law if they die in-testate. If that property is--or some property--is held jointly, you know checking accounts are fairly normal be joint ownership, your house that that's kind of normal, savings accounts all that kind of stuff that joint with rights of survivorship that automatically transfers are not what we're talking about here.

So individually owned assets...if you pass away without a will, those assets pass to survivors based on state law and through the probate process. So in Indiana let's say you have a small business or shares in a family farm, and you pass away without a will. Those assets not only go to your surviving spouse but a portion of those will automatically go to your children whether you want them to be in ownership of that small business or Family Farm or not. It's based on state law, and state law does not take into account unique family circumstances, difficult family dynamics, or even your wishes because you didn't tell them your wishes.

You didn't tell them what to do with your property or who to give it to and who not to give it to, and I've heard a terrible word associated with that and that's "probate," right? So probate's kind of a no-no: it's slow because you're working through the courts. So probate is the court-supervised administration of an estate, and it can happen when somebody dies with or without a will. Probate can be expensive and slow because again you're working through the courts, and you're at the mercy of the attorneys and the judges and their schedules, which leads us to setting up a trust.

If all your assets are in a trust, you've worked with your professionals, your attorneys to draft those documents and retitle everything to be owned by your trust. The trust is administered outside of probate--the trustee is in charge--and has a fiduciary responsibility to follow the terms of the trust they manage, the assets, the distributions, operate Investments or businesses, or whatever according to the powers outlined in the trust and according to the Settler's wishes.



To get us on a on a great path and to make sure anyone is not involved in having to deal with probate, what does the process look like? Where do you help, and what are the steps involved?

The process that we use starts with gathering all the relevant information--and that's not just what you own and how much you are worth. We learn about your family Dynamics, your concerns, beneficiaries, other special circumstances that are unique to your situation-- whether it be combined families, mix families, special needs individuals, minor beneficiaries--all of these issues should be addressed and planned for. And each plan is unique and tailored to the client's needs.

After we have all that information, we delve into the assets and decide what you want going where. But first and foremost, we need to accomplish the client's goals and address their concerns. Then we need to minimize the exposure to estate taxes. Nobody passes away saying, "You know, I really feel bad for the United States government. I want to give as much as I can to them to help them with their issues." No one ever says that. So we want to minimize the taxes because to a large extent--for a lot of people--it's a voluntary tax if you do the proper planning. You can really eliminate the threat of state taxes taking a huge chunk away from your beneficiaries and away from your life goals and post-life goals: what you want your assets to do for your beneficiaries and whomever else uh you you've identified.

The lifetime exemption right now has \$12.92 million in 2023 (for another week or two as of this recording) and in 2024 it increases to \$13.61 million, and then it'll go up again in 2025. At the end of 25 it's going to reset to prior law before the 2017 tax cut jobs act, which will basically cut the exemption in half. So we have a few years now where we can really work to get those exemptions set in place and use them to the fullest extent. That way, when it's reset in two years, we're not really hurt by it for the people that we're planning for.

And you might not have a problem now because of your current net worth, but you have to consider appreciation of the assets over the next few years. And that automatic reset and a lifetime exemption is really going to threaten a lot of people's estates that aren't considered really at risk now. They will be in just a few years, so we have the assets, the net worth, and we have the family issues to consider. We need to get to work, so we dive into our recommendations and our plans and what we're trying to do.

Our goal is to provide a road map to our clients that can be put into the legal documents that address their concerns and accomplish their goals of their transfers of wealth. We can work with their attorneys, and if they don't have attorneys we can certainly make recommendations for some that we work with on a regular basis and that we trust. That's really a key issue. After the documents are drafted, we review them before they're signed to make sure that they're complete and accurate, really accomplishing what we said we wanted to accomplish. And then after that, we monitor and advise. If circumstances changed after the documents are drafted that weren't really covered in those documents-- let's say beneficiary predeceases or a divorce or other issues that come up with beneficiaries where you don't want to leave them your money outright maybe they've developed some personal problems where they're not in a circumstance to take care of themselves. You want to have a trust set aside for them so they can't

squander what they're given. That's where we can kind of fix those things after the fact if they weren't already discussed and planned for at the get-go.

So these are revocable trusts that we're normally dealing with so you can change them at any time up to your date of death, This is also true with reexamining things IRAs, life insurance beneficiary designations, etc. If circumstances change you really need to take into account the primary and the contingent beneficiary that are identified in those separate contracts that are kind of outside the probate and outside the trust Realm. But you still need to think about those things.

A lot of wealth is kind of involved in people's retirements that they've saved for all their lives and they kind of set those aside and don't think about them after they fill out their beneficiary designation when they first get the accounts. But they really need to identify those carefully and keep those under their thumb so they know where those assets are going.

After our process is done, it's really never done so at the very least what we try to do is give them a nudge or gentle reminder that this process needs to be wrapped up and taken care of and restarted before it's actually finished. These issues just kind of go, "You know our planning process is finished but we need to keep an eye on things to make sure that those goals are really identified and the transition is order no matter what changes occur during the person's life."

And that's a good point especially with not only getting it set up properly to begin with but you have to be a caretaker to it and make sure that that things stay on track throughout. Life has a lot of variables, so it's good to have somebody like Brady Ware to monitor those things for you.

Bruce Van Vreede:

Thank you very much everybody. We appreciate you listening in, and hopefully this has been helpful. If you have questions or would like to start figuring out your plan for an estate in a proper process please reach out to Mark Kassens at mkassens@bradyware.com.