

FUNDAMENTALS OF ESTATE PLANNING

- I. THE INITIAL PHASE** Goals of planning - Introduction to testamentary and incapacity planning and basic documents used in each
 - A. Basics of asset titles - What they all mean and how asset titles impact the plan
 - B. Gathering your clients' information - Client questionnaire (sample form)
 - C. The initial interview - Meeting and educating your client
 - D. Identify your client
 - E. Using engagement letters effectively (sample(s))
 - F. Warning - Need expert if Medicaid issues; corporate issues; tax issues; know your limitations
- II. ETHICAL GUIDELINES FOR ESTATE PLANNERS**
 - A. Conflicts and multiple representation
 - B. Confidentiality
 - C. Gifts to attorneys
 - D. Attorneys as fiduciary
 - E. Be cautious of repeated referrals from professionals and the professional's appointment as fiduciary
 - F. Fees
- III. TAX BASICS (60 minutes)**
 - A. Taxable v. non taxable estate
 - B. Personal income taxes
 - C. Income taxation of the estate and trust
 - D. Community Property Trust – mention, but not a basic course concept

IV. A SIMPLE PLAN AND THE NOT SO SIMPLE WILL

- A. Exordium
- B. Residency
- C. Defining the family/Persons named
- D. Joint property clause – This is NOT boilerplate!
- E. Devise of tangible personal property
- F. Separate writing
- G. Specific devises
- H. Residuary devise
- I. Alternate residuary devise
- J. Simultaneous death clause
- K. Clause to adjust devises if some assets are passing outside of probate, e.g., POD, TOD, JTWRROS
- L. Nomination the personal representative and alternate
- M. Powers
- N. Testimonium
- O. Attestation
- P. Self-Proof

Tax apportionment clauses are beyond the “simple will” and the scope of this basic course.

V. TESTAMENTARY TRUST

- A. Trust for Minors or Incapacitated/Under a Disability - May need to consult an expert
- B. Standby Trust
- C. Disclaimer Trust - Although tax planning may be done through a will, that subject matter is beyond the “basic” scope of this program

VI. EXECUTING THE WILL

- A. Signature blocks and self-proof clause
- B. Routine and proper execution hygiene
- C. Conforming, distributing the originals and the copies
- D. Who keeps the originals and why

VII. HOMESTEAD (NOTE that there is or will be a separate Homestead 101 program that will go into more depth.)

- A. What is homestead
- B. Restrictions on devise
- C. Descent of homestead
- D. Devise via Residuary Clause
- E. Implications of direction to sale

VIII. IRAs

- A. Are beneficiaries named? Are they minors?
- B. SECURE Act

IX. PLANNING FOR INCAPACITY AND THE ANCILLARY

- A. Durable Powers of Attorney
- B. Role of the agent-responsibility and liability
- C. Super powers
- D. Protecting the principal
- E. How many originals and who keeps them
- F. Health Care Surrogate
- G. Living Will

H. Nomination of Pre-Need Guardians

I. Importance of coordinating the ancillary documents