

# Introduction To Estate Planning

## Steven G. Siegel

### TABLE OF CONTENTS

Chapter I – What Is an Estate Plan?.....	1
A. Introduction – Why Estate Planning?.....	1
B. Estate Planning Objectives.....	1
C. Overcoming Planning Reluctance.....	3
D. What Is An Estate Plan?.....	4
E. Assemble the Estate Planning “Team”.....	5
Chapter II – Getting Started: The Questionnaire and Interview.....	6
A. Information Gathering.....	6
B. The Use Of Questionnaires.....	7
C. Form Of Questionnaire.....	7
D. Approaching The Interview.....	7
E. The Interview.....	8
Chapter III – Elements Contained in (or To Be Considered in) Every Will.....	11
A. Exordium Clause.....	11
B. Debts, Funeral Expenses To Be Paid By Executor From Assets Of The Estate.....	11
C. Tax Clause Directing Payment Of Taxes.....	11
D. Bequests Of Tangible Personal Property.....	12
E. Address Specific Gifts, Devises.....	13
F. Unified Credit Clause.....	13
G. Marital Deduction Clause.....	13
H. Non-Spousal Beneficiaries And Second Death Considerations.....	13
I. “Wipe-Out” Considerations.....	14
J. Appointment Of Fiduciaries – And Successors.....	14
K. Common Disaster Clause To Reverse State Law Presumption Of Simultaneous Death And Declare Who is Deemed To Survive.....	15
L. Fiduciary Powers Clause.....	15
M. Minors Clause.....	16
N. Non-Contestability Clause.....	16
O. Formality Of Execution By Testator.....	16
Chapter IV – Using Trusts in Estate Planning.....	
A. Basic Characteristics And Elements Of Trusts.....	17
B. Living Trusts.....	20
C. Testamentary Trusts.....	22
D. Other Special Situation Trusts.....	23
Chapter V – How Does the Federal Estate Tax System Work?.....	24
A. Overview.....	24
B. Property Included in the Gross Estate.....	25
C. Deductions From the Gross Estate.....	27
D. Credits Against the Estate Tax.....	27

Chapter VI – Addressing the Types of Property Interests Likely to be Owned by a Client .....	29
Part I: Handling Jointly-Held Property .....	29
A. Advantages of Joint Property .....	29
B. Disadvantages of Joint Property .....	30
C. Planning Suggestion for Joint Property Assets .....	31
D. Special Rules for pre-1977 Jointly-Held Property By Spouses .....	31
Part II: Handling Life Insurance Policies .....	
A. Introduction .....	31
B. General Rules of Taxation of Life Insurance .....	32
C. Life Insurance as Part of the Estate Plan .....	33
Part III: Handling Retirement Plan Benefits .....	34
A. General Rules of Retirement Plan Taxation.....	34
B. Planning Strategies with Retirement Plan Assets.....	34
Part IV: Handling Owners of a Business .....	36
A. Introduction .....	36
B. Transitioning the Business from One Generation to the Next .....	36
C. Key Succession Planning Issues to be Addressed by the Business Owner.....	37
D. Is a Buy-Sell Agreement Appropriate Advice?.....	38
Chapter VII – Basic Tax Issues To Consider in Developing an Estate Plan .....	38
A. Planning Building Block: The Unlimited Marital Deduction .....	38
B. Planning Building Block: The Unified Credit/Exemption Equivalent/By-Pass Trust .....	41
C. Basic Lifetime Gifting Strategies .....	43
Chapter VIII – Elementary Documents To Address with Every Client.....	45
1. The Last Will and Testament .....	45
2. The Living Trust .....	49
3. Be Alert for Problems – Undue Influence .....	50
4. Plan for Disability – The Durable Power of Attorney .....	52
5. Plan for the Worst – Living Wills and Health Care Proxies .....	54
Appendix Materials.....	57
Glossary of Estate Planning Terms.....	59
Short-Form Client Questionnaire.....	67
Long-Form Client Questionnaire .....	69
Simple Will .....	77
Living Trust.....	90
Pour-Over Will.....	105
Durable Power of Attorney .....	110
Health Care Directive.....	119