

Definition of Estate Planning

In order to have an effective conversation about the type of estate planning that clients should implement, we first need to understand what makes an effective estate plan. To do this, let's look at a Definition of Estate Planning. When clients understand the goals expressed in this definition and adopt these goals as their own for their estate plan, then the type of estate plan can be determined.

Definition of Estate Planning

1. I want to control my property while I am alive and well.
2. I want to take care of myself and my loved ones if I become disabled.
3. I want to give what I have to whom I want, when I want, and the way I want.
4. I want to save every last tax dollar, professional fees and court cost possible.

Simply put, an effective estate plan has as its foundation elements of control and efficiency. Let's look at each part of the definition:

"I want to control my property while I am alive and well." Many people feel that in order to avoid probate, they need to transfer their property to their children while they are living. Some people will add their children as joint tenants to real estate or bank accounts to allow for probate avoidance and to allow the children access to the accounts in the event of disability. Both of these techniques (lifetime transfer and joint ownership) require the giving up of control of the property. An effective estate plan must allow for the owner to maintain control over their property – without the need for getting a co-owner's consent – while they are alive.

"I want to provide for myself and my loved ones if I become disabled." Once again, this is all about control. An effective estate plan will have provisions made for the use of the person's assets in the event that they become disabled. Procedures will be established for determining when the disability has occurred, and also how and by whom determination will be made. Decisions can be made about spending priorities, medical care and preferences, management of property, living arrangements, provisions for other family members, and continuation of gifting. An effective estate plan will allow a person to maintain control over how their property is used, even if they become disabled.

"I want to give what I have to whom I want, when I want, and the way I want." Again, this is a matter of control. The typical "simple will" plan leaves property to beneficiaries outright, without providing protection for those beneficiaries. Many people aren't even aware that there are options other than "outright distribution" available to them. An effective estate plan allows a person to control not only who the beneficiaries are, but also when the beneficiaries receive the inheritance and the manner in which it is distributed. An effective estate plan takes each individual beneficiary's needs, strengths and weaknesses into account and creates a customized plan of distribution for each one. The effective plan can provide asset protection, provide for special need beneficiaries, provide protection against possible divorce, addiction, or predators.

"I want to save every last tax dollar, professional fee and court cost possible." This is a measure of efficiency. An effective estate plan will provide the maximum possible tax savings for the estate, taking into consideration income taxes, and estate taxes. The professional fees and court costs will be charged for the estate administration need to be considered as a factor of the plan itself, and an effective plan will minimize fees, thereby maximizing the distributions to the beneficiaries. An effective plan will save the most money possible.

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