ESTATE PLANNING

THE BASICS AND BEYOND

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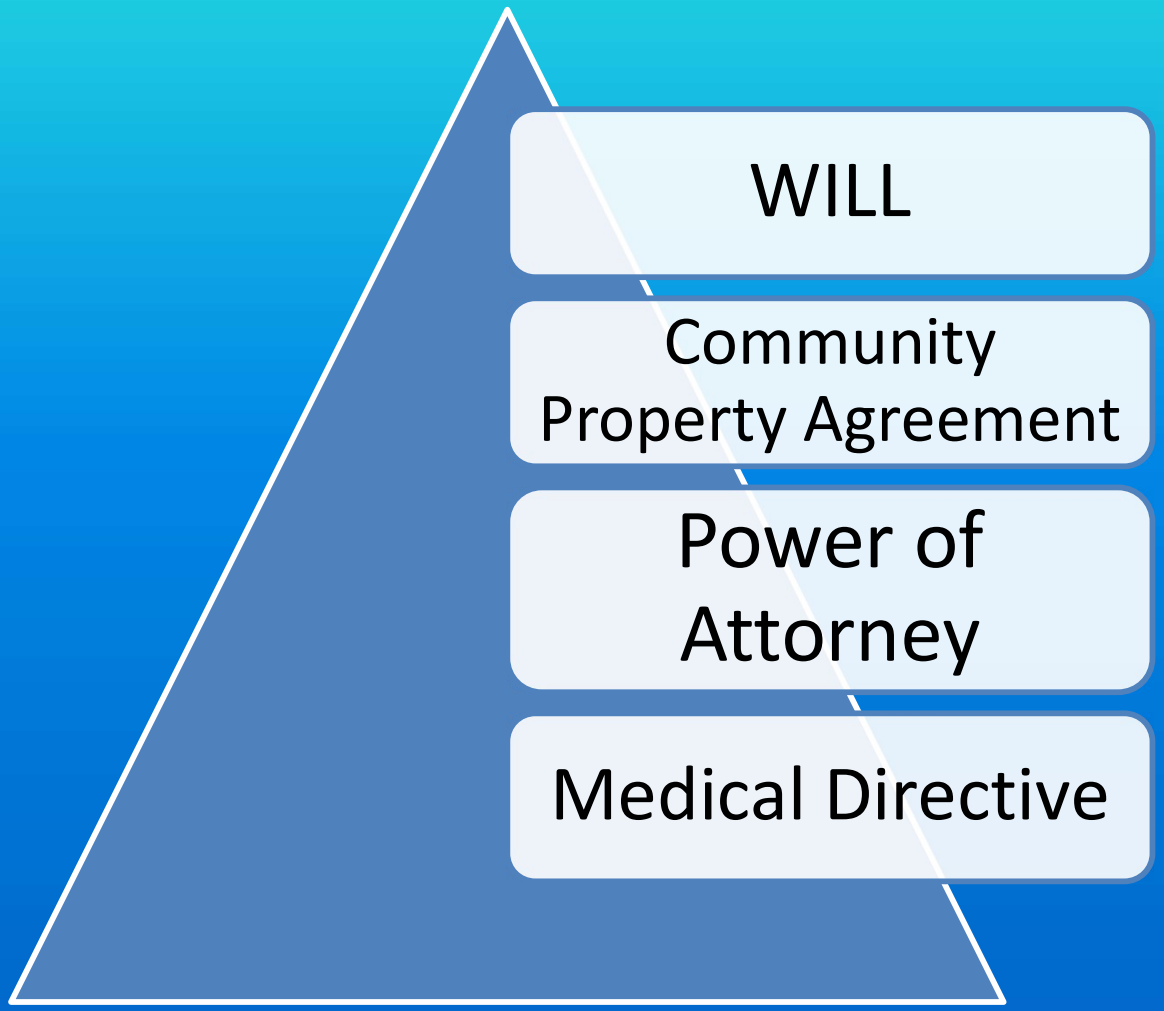
The Basics


WILL
Community Property Agreement
Power of Attorney
Medical Directive

Last Will and Testament

- Who's In charge? Appoints an Executor
- Who inherits? Names your heirs
- How do they receive their inheritance?
- Ease of Administration:
  No bond required
  non- intervention

WILL Myths

- Your Will Determines Who is in charge to wind up your affairs (Executor) and names your Heirs

- Will Myths:
  - No probate if you have a Will
  - State gets your assets if you don't have a Will
  - Wills protect you if you become incapacitated

- Don't do "I love you" Wills if your estate is over $2,000,000.

  - Estate Tax planning for couples with estates over $2 Million

Community Property Agreement

- A Community Property Agreement is a contract signed by both spouses giving all of the assets to the survivor when the first one dies.
  - Eliminates probate on the first death: SIMPLE!
  - You still need a Will
  - Only valid in Washington and Idaho
  - Not appropriate if you don’t want all to go to the surviving spouse
  - Not appropriate if your estate is over $2,000,000

Powers of Attorney

- Planning for incapacity
- General Power of Attorney – names an Agent to make financial / estate decisions
- Health Care Power of Attorney – names an Agent to make medical / personal decisions
- Effective Immediately, or upon written determination by physician

Powers of Attorney

- Specific powers must be stated:
  - Gifting Powers
- Only effective if authority will be recognized
- Power "sharing" – does not take away your own ability to act
- May avoid the need for Guardianship (court process of appointing an Agent)

Power of Attorney Documents

- How OLD – age of document
- How BROAD – does it state specific powers
- HEALTH CARE – are there good instructions
- ALTERNATES

Living Will (Health Care Directives)

- States wishes in regards to medical treatment
- Artificial means of life support
- Should “Agree” with POLST
- Does not take away Health Care Agent’s ability to advocate
- Only used in end-of-life situations

Beyond The Basics

- Testamentary Trusts and the Will
- “Non-probate” Transfers
- Revocable Living Trusts

Testamentary Trusts and the Will

- Trust created as instructions in the Will
- Control “beyond the grave”
- Are established at your death
  - No restructure of your assets while living
  - Can be altered and amended during your life

Testamentary Trusts

- Provide **FOR** heirs, not give **TO** heirs
  - Trustee appointed to manage inheritance
  - Instructions / restrictions on use
  - Can control timing of distributions

HOW do you want heirs to inherit?

Testamentary Trusts

- Inheritance planning for children
  - Provide for education
  - Delay inheritance until “age of maturity”
  - Not counted for Medicaid purposes
  - Used for any worthwhile purpose

- Tax advantages
  - Washington estate tax over $2 Million in assets
- Blended families
  - Second marriages – provide for spouse
  - His / hers/ our children

Non-Probate Transfers

- JTWROS / Community Property
- Tenants in Common?

- P.O.D. (payable on death) T.O.D. (transfer on death)

- Transfer on Death Deed for real property

- Beneficiary Designations
  - Primary
  - Contingent
  - Per Stirpes???
  - Trusts?

WHY NAME BENEFICIARIES?

- Ease of access
- IRA / ROTH / 401(k) tax advantages, creditor protection
- Life Insurance – creditor claims protection!
- JTWROS – immediately available
- JTWROS – works like a Power of Attorney

GOOD INTENTIONS

Last Will and testament:

- Money in a trust for children / grandchildren
- Inheritance protection
  - Creditors
  - Long-term care
  - Reckless spending

BAD RESULTS

- Accounts name spouse / children / grandchildren as beneficiary
- Trust is not funded, money goes directly to the beneficiary

REVOCABLE LIVING TRUST

An alternative to Wills and probate

- A Trust is a legal entity that continues through death until your estate is distributed
- Trusts have a Grantor (establishes the trust), a Trustee (manages and controls the trust) and beneficiaries (use and enjoy trust property)
- Your trust contains the inheritance plan that would otherwise be in your Will

Revocable Living Trusts

- Avoids Probate
- You retain control over your assets
- You can amend or revoke the trust at any time
- No additional record keeping or tax returns are required

Pros and Cons

PROS

- Avoids multiple probates
  - Property in multiple states
  - Estate tax planning for couples
- Keeps your Estate more Private
  - No court filings
  - Assets may not be in your name

PROS and CONS

CONS

- More up-front work than having a Will
- Must be properly funded and maintained (assets titled in the trust)
- Higher up-front cost to set up than a Will

QUESTIONS and NOTES

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