

BEING PREPARED:

POWER OF ATTORNEY | HEALTH CARE PROXY | WILL/TRUSTS



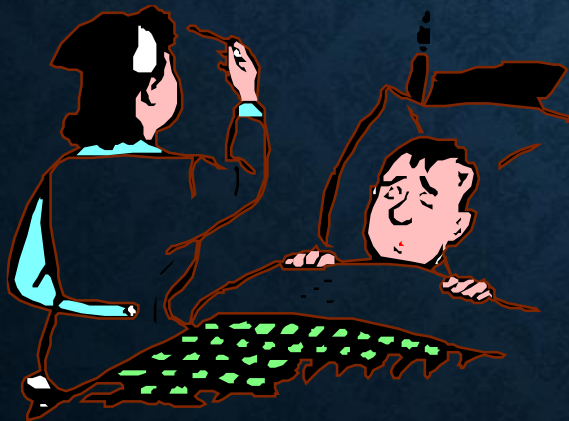
Douglas J. Chu, Esq

Douglas Chu, Esq.
Hynes & Chu, LLP
305 Broadway – Suite 700
New York, NY 10007
(212) 643-1112
djchu1776@gmail.com
www.elderlawny.net

TWO CATEGORIES OF CONCERN

Life care Issues: before you go

- Power of Attorney : gives someone your signature (ends with death)
- Health Care Proxy: can make medical decisions for you
- Living Wills: list of what you want and do not want medically



Death Issues: after you are gone

- Beneficiary designation
- Will
- Probate
- Trust vs. Will

WHAT HAPPENS TO THE THINGS I OWN WHEN I AM GONE?



WHAT IS PROBATE?

(A WILL DOES NOT HAVE TO BE PROBATED)

There is a Will = Probate

No Will = Administration

Will is submitted to Court for approval by the named Executor

Family member asks Court to be named Administrator of the estate

The Court will require all interested parties to be located and notified

Takes time to locate everyone

Missing family can cause long delays

All close family must be notified, even if not named in the Will

Courts can be busy = long delays

Nothing can be done until the Court appoints the Executor or Administrator

Once the Court grants FULL Letters of appointment, then estate can be distributed to people named in the Will or by rules of Administration (no will).

WHAT IF YOU DON'T HAVE A WILL OR TRUST?

(Intestate Succession)

If...	Then...
Children, but no spouse	children inherit everything
Spouse, but no descendants	spouse inherits everything
Spouse and descendants	spouse inherits the first \$50,000 of your intestate property, plus $\frac{1}{2}$ of the balance descendants inherit everything else
Parents, but no spouse or descendants	parents inherit everything
Siblings, but no spouse, descendants, or parents	siblings inherit everything

WHAT AVOIDS GOING TO COURT?

1. Naming a beneficiary: TOD, POD, In-Trust for
2. Joint Ownership with someone
3. Putting it in a Trust : Revocable Living Trust or Irrevocable Trust.

REVOCABLE LIVING TRUST

1. Things in the RT still belong to you (revocable)
2. You are the Trustee of your RT – if you become ill or pass, then the alternate Trustee will take over.
3. The contents of the RT will automatically go to who you list in the RT. No Court action required. You name beneficiaries who will inherit from the RT when you are gone.
4. Contents of the RT are subject to liens by creditors, including Medicaid.

IRREVOCABLE TRUST

1. Things put into an IT cannot be returned to you. You are no longer the owner = the IT will own what is put into the Trust.
2. The IT has its own tax I.D. number and a Trustee must be chosen by you – you cannot be the Trustee.
3. Things in the IT may be sold, but then the money from the sale must stay in the IT.
4. The IT may sell and buy things, as long as it all stays inside the IT and is not returned to you
5. You may receive income generated by the IT.
6. You usually retain the power to change the beneficiaries of the IT
7. You usually retain the exclusive right to live in any co-op or apartment in the IT.
8. TAX ISSUE: Because you control who inherits from the IT and you have right to live in the property = capital gains and step-up tax benefits are not affected.
9. *Moving things into an IT will cause transfer penalties for **Medicaid Planning**.

STEP-UP AND CAP GAINS TAX RULES



\$100 purchase price

Current Value \$1,000

You Sell House =
\$900 taxable profit
(capital gain)

You give house to child =
you give them your tax
bases, so when child sells
= \$900 taxable profit.

Rev Trust = as if you
still own the house
(just avoids probate)

Irrev Trust – you do
not own the house, but
you have enough
control until death, so
it is as if it passed by
will at death

Family inherit house
worth \$1,000 by will
(step-up at death)

When they sell house for
\$1,000, no taxable profit
(step-up at death)

COMMON TRUST ISSUES

- Selecting a Trustee – who do you trust? What if you don't have anyone?
- Moving things into the trust – takes time and money to re-title things into the name of the trust. Very often things are left out the trust.
- Can an Irrevocable Trust ever be reversed? See your attorney.

THE END

That's all Folks!



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