# Key Estate Planning Considerations

Although the American Taxpayer Relief Act of 2012 (ATRA 2012) effectively eliminated federal estate and gift taxes for most Americans, there is still a vital need to do estate planning.

Why? There are several key reasons: (1) to be sure that all of your wishes are followed after death; (2) to plan for *state* inheritance or estate taxes, if you live (or own property) in a state which levies such a tax; and (3) to plan in advance how to pay for any estate settlement costs. Federal estate tax law may have changed, but estate planning *still* matters.

## Transfer of Assets

A primary objective is to insure that your assets go to those you want to receive them.

| Method | Description |
|---|---|
| **Will** | Considered a key element in any estate plan, a will is a legal document, prepared under state law, which names those who should receive your property. An "executor" is generally named in the will to carry out your wishes. After death, "probate" will be required, a process in which the property listed in the will is distributed to the named heirs under court supervision. Unfortunately, the probate process is frequently expensive and time-consuming, and generally makes the contents of a will a public record. If you die without a will (termed "intestate"), your property will be distributed according to state law, which may result in your assets being distributed in a manner *not* in accordance with your wishes. |
| **Revocable Trust** | Also known as a "living" trust, a revocable trust can be changed or revoked during the lifetime of the trust creator (the "grantor," "settlor," or "trustor"). Such a trust is often used as a will substitute, when the grantor transfers assets into the trust during life or at death through a "pour-over" will. A revocable trust can make settling a decedent's estate easier and less expensive than probating a will and can also provide privacy not available in probate. |
| **Irrevocable Trust** | An irrevocable trust – as the name implies – cannot be changed once it is set up. These trusts are often used in estate planning for wealthy individuals. An irrevocable trust which holds life insurance can provide the funds needed to pay death taxes and other estate settlement expenses, while keeping the life insurance proceeds outside of the taxable estate. |