**Estate Planning Basics**

Sponsored by the Planned Giving Committee — Cary Memorial Library Foundation

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**Meet the Panelists**

Patrick McAvoy, Atty, LLM (Taxation)
Rebecca O’Brien, Atty
Kevin Sargis, Atty, CPA
Edward Fitzgerald, Trust Officer
Peter Hoffman, CFP, RLP, MBA
Rand Spero, CFP, MBA
Jane Trudeau, Atty, LLM (Taxation)

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**Jane Trudeau**

**Importance of Estate Planning**

- Maximizes your control over how and when your assets are distributed
- Allows you to make difficult financial decisions when you are capable
- Diffuse potential conflicts over assets
- Minimize potential taxes
- Helps ensure affairs are covered if incapacitated

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**Where Should Jonas Begin?**

**Estate Planning Team**

- **Attorney** — discusses your family needs and your assets, then creates documents, Will, Trust, Durable General Power of Attorney and Health Care Proxy to both provide for your family and minimize taxation.
- **Accountant** — focuses on income and estate tax issues.
- **Trust Officer** — can advise you as to the use of trusts in the management and investment of assets.
- **Financial Planner** — provides a general overview of your estate planning and current and future financial needs, in addition to providing investment advice and management.
Patrick McAvoy
What Will A Will Do For Jonas?
• Set of Instructions.
• Directs the Disposition of Assets at Death.
• Appoints Someone Personal Representative (“P.R.”) f/k/a Executor or Administrator.
  ▫ To represent you and administer estate at death
• Appoints someone to serve as Guardian for Minor Children and Incapacitated Spouse or Adult Child.

How Does Probate Work?
• P.R. files Will with Court and notifies heirs.
• Court reviews Will and, if no objections, allows Will, appointing P.R. and Guardian.
• P.R. and Guardian follow instructions in Will.

Administering the Estate—Letters of Authority
• P.R. manages assets, tends to personal property and pays taxes.
• Will instructions do not apply to:
  ▫ Retirement accounts
  ▫ Life insurance
  ▫ Jointly owned property
  ▫ Pay on Death accounts
• P.R. has no control over these assets.

Does Jonas Need A Will?
• Yes, he has a disabled son who needs a Guardian.
• The right Jonas's father gave Jonas to direct payments from a Trust, will require direction by Will.
• Probate is not always avoided with joint property and beneficiary designations
  ▫ Forgotten assets
  ▫ Predeceased beneficiaries
  ▫ Unknown assets or issues
• Separate Documents possible under new law:
  ▫ Appointment of guardian of minor.
  ▫ Appointment of guardian of incapacitated spouse or adult child.
Probate Avoidance

- Why avoid Probate
  - Cost and delay
  - Potential conflicts
- How to avoid Probate
  - Joint ownership
  - Beneficiary designations
  - Trusts—written instructions without cost and delay, appoint Trustee instead of P.R.
- Simple Will—“pour-over” all to Trust just in case.

DOES HE NEED MORE THAN A WILL? DOES HE NEED A TRUST?

- Disabled Son—Supplemental Needs Trust
- Estate Taxes—Trust For Spouse
- Avoid Probate
- Possible Nursing Home Protection

PLANNING FOR DISABILITY
Jonas Will Need These Too

- Durable General Power of Attorney
  - finances
- Health Care Proxy
  - medical
- Living Will
  - medical directive end of life

Rebecca O’Brien
Trust and Estate Issues for the Small Business Owner

- Provisions in Will:
  - Who receives small business shares and what will happen to those shares
    - Heirs who participate v. heirs who are not involved
    - Buyout of shares
- Ensure access for Personal Representative to:
  - Bank accounts
  - E-mail accounts
  - Social networking sites
**Trust and Estate Issues for the Small Business Owner - cont. 1**

- **Power of Attorney**
  - Incapacity
  - Separate from power of attorney for personal assets?
  - Ensure access to small business accounts
- **Buy-Sell Agreement**
  - Multiple owners
  - Death or incapacity
  - Sale price
- **Succession Plan**
  - Document outlining your vision for the company’s future

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**Kevin Sargsis**  
*What is Included in Taxable Estate*

- Issues—Control and use
- Common misconceptions:
  - Jointly-owned property
  - Life insurance

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**Trust and Estate Issues for the Small Business Owner - cont. 2**

- **Insurance**
  - Living partners often need life insurance to buy out deceased partner’s share
  - Separate term life insurance to benefit family after loss of income

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**Federal Estate Tax**

- $5.49 million exemption per person
- Portability—Married Couples
- Marital Deduction—deferral not elimination
- Stepped-up Basis
- Annual Gift Exclusion
- Estate tax rate 40%
Massachusetts Estate Tax
- $1 million disappearing exemption
- Rates:
  - 3.8% on first $1 million
  - Graduated Rates up to 16% on balance
- No gift tax
- No change anticipated

New Focus For Mass Residents
Estate Tax vs Capital Gains Tax
- Federal Exemption has eliminated Federal Taxes for all but top 1% or 2% of population.
- Pay Mass Estate Tax and get “stepped-up basis” and avoid capital gains tax on inherited appreciated property.
- Gift off assets during lifetime (Mass has no gift tax) and pay capital gains tax of approximately 20%.

Edward Fitzgerald
What is a Trust
- A Trust is a Set of Instructions
  - Revocable or Irrevocable
  - Names a Trustee
  - Can Take Effect During Your Lifetime
  - Avoids Probate

What Does a Trustee Do
- Fiduciary Management (carry out terms of the trust, prepare/file fiduciary tax returns, etc.)
- Investment Expertise
- Family Member Can be Trustee or Co-Trustee
What A Professional Trustee Looks At

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Minimization of Estate Taxes Through the Use of Trusts

- A trust can save estate taxes upon the death of a beneficiary who did not set up the trust.
- A married couple in Massachusetts can pass $2 million to their children tax-free by using a trust for the surviving spouse.
- Gifting into an Irrevocable Trust During Lifetime—Insurance

By Pass Trust to Minimize Estate Taxes

![By Pass Trust Diagram]

Federal Estate Tax Threshold is currently $5.49 million

Peter Hoffman

Dos and Don’ts for Leaving IRA Assets

**Do**
- Check that your IRA beneficiaries are coordinated with estate plan documents
- Consider a ROTH conversion
- Consider using IRA funds for charitable donations
- Consider using IRA funds to make an HSA contribution

**Don’t**
- Skip designating a beneficiary to any of your retirement accounts
- Forget to update designation if you have major life change
- Forget to update IRA beneficiary when moving to another financial institution
Retirement Account Beneficiary Designations

- Designations on retirement plans override other estate documents
- Make sure that the designations are appropriate
- Designating one or more trusts as beneficiaries
  - Asset protection from creditors and spendthrifts
  - Accumulation trusts vs conduit trusts
  - Separate trusts for each beneficiary to maximize stretch
  - Use estate attorney skilled in IRA trusts
- Trusteed IRAs vs Custodial IRAs

What Happens to Retirement Accounts When They are Inherited?

- Estate tax may be due on an asset some part of which will be used to pay income taxes
  - Consider Roth IRA conversion before death
- Spouse can roll it over and treat it like his/her own IRA
- Other beneficiaries have different rules
  - Inherited IRA account naming is critical
  - MRD required regardless of age (no 59 1/2 penalty)
  - MRDs based on beneficiaries’ ages if set up right
  - Must separate charitable beneficiaries to preserve stretch for other beneficiaries
  - Must use custodian to custodian direct transfer when setting up inherited IRA accounts

Rand Spero
Financial and Estate Plans Should be Coordinated

- Financial plans must direct your estate plan

Financial Issues That Impact Estate Plans

- Goals and aspirations
- Financial situation
- Family issues
- Health care concerns
- Retirement plans
- Gifting during lifetime
Gifting Plans
- Coordinate gifting in financial and estate plans
- How much to gift during lifetime?
- Which assets to give?

Take Action!
- Develop financial and estate plan
- Periodically review and update
- Maximize your control over how and when your assets are distributed

Gifts to Cary Library
- Bequest in a Will or Trust
- Life Insurance
- IRA
- Donor-Advised Funds

Donor-Advised Funds
"Donor-advised funds are on a roll as the charitable giving vehicle of choice."
-Forbes Magazine
- Growing popularity as a vehicle to gift to Cary Library