

## Estate Planning Basics

Sponsored by the Planned Giving  
Committee – Cary Memorial  
Library Foundation

### 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)

### 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

### 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

## 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

## *Kevin Sargis*

### What is Included in Taxable Estate

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

## 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 \$1million
  - 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

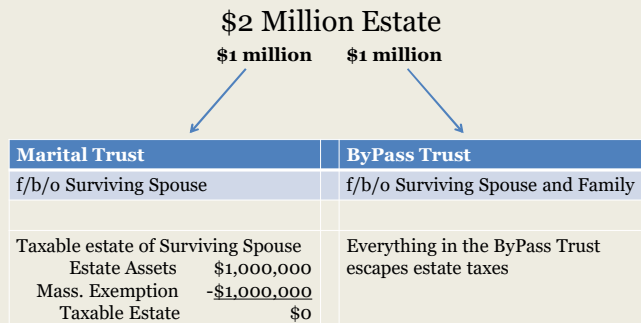
## What A Professional Trustee Looks At

	Wealth Management Issues	Date Discussed	Action Plan	Date Accomplished
1	Investments			
2	Insurance			
3	Qualified Retirement Plan/IRA			
4	Taxes			
5	Credit/Borrowing/Liabilities			
6	Stock Options			
7	Business Succession			
8	Durable Power of Attorney			
9	Gifting to Children/Descendants			
10	Charitable Giving			
11	Titling of Assets			
12	Executor/Trustee			
13	Distribution of Wealth at Death			
14	Beneficiary Designations			

## 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



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