1. Chilkat Valley Community Foundation (Haines & Klukwan)
2. Cordova Community Foundation
3. Golden Heart Community Foundation (Fairbanks & North Pole)
4. Jessica Stevens Community Foundation (Upper Susitna Valley)
5. Kenai Peninsula Foundation
6. Ketchikan Community Foundation
7. Kodiak Community Foundation
8. Palmer Community Foundation
9. Petersburg Community Foundation
10. Seward Community Foundation (Seward & Moose Pass)
11. Sitka Legacy Foundation
Wills and Estate Planning

- Current Assets / Cash
- Appreciated Stock or Mutual Funds
- Use your IRA Required Minimum Distribution to support causes you care about.
- Set up a Donor Advised Fund for flexibility and tax savings
- Name a charity one of your retirement account beneficiaries
- Bequests via your will or estate plan
Wills and Estate Planning

- Who do you love, care for, and find comfort from? Who gives you practical support?
- What gets you out of bed every morning? What issues keep you awake at night?
- Where is the biggest need? Where do you find the information, you need to decide?

What will your legacy be?
The Alaska Community Foundation can help you leave your legacy
Heather Flynn
Legacy Donor
Chris Lauer
Attorney at Law
ESTATE PLANNING 101

CHRIS LAUER
J.D.

Manley & Brautigam P.C.
Anchorage, Alaska
907-334-5600
What is Estate Planning?

• Accumulation of Wealth
• Preservation of Wealth
• Distribution of Wealth
Accumulation & Preservation of Wealth

- Earnings and Income
- Savings
- Investments: Stocks, Bonds, Businesses, Real Estate, etc.
- Retirement Planning: IRA, 401(k), Profit Sharing Plan
Distribution of Wealth

• Distributions During Life
• Surviving Spouse, Children, and Family
• Minimize Costs and Expenses
• Confidentiality
• Liquidity of Assets
• Reduce Transfer Taxes
What Is Estate Planning?

• Proactive planning by you
• An ongoing process
• Can be very simple or complex
• Depends on your goals
Estate Planning is a Team Effort

You and Your Family

- Certified Public Accountant
- Investment Advisors
- Life Insurance Agent
- Estate Planning Attorney
Seven Common Estate Planning Mistakes
1. Designation of Beneficiaries

Coordinate your designated beneficiaries with your Estate Planning goals

- Life Insurance
- IRA
- 401(k) Plans
- Profit Sharing Plans
- Jointly Owned Accounts
2. Lack of Liquidity on Death

Where will the cash come from?

• Payment of
  ▪ Expenses
  ▪ Debts and business obligations
  ▪ Taxes to the IRS

• Funds for surviving family members
• “Fire sale” of assets?
• “Other Children”
3. Out-of-Date Wills

- Do you leave everything to your spouse?
- Can your spouse/children handle the assets you leave to them?
- Do you properly provide for your spouse/children?
- Is a Trust necessary or appropriate?
- Who will be the Personal Representative? Trustee? Guardian?
4. Property Ownership

How do you own your assets?

• Tenants in Common
• Jointly owned with rights of survivorship
• Tenants by Entirety (only husband & wife)
• Community Property
• Transfer-on-Death Deeds (TODD)
• Pay-on-Death Accounts
• Partnerships
5. Adequate Insurance

Do you have adequate insurance?

• Life
• Health
• Disability
• Long-term Care
• Liability (auto, plane, toys, property, professional)
• Personal Umbrella Liability (recommend: 1.5 x Net Worth)
6. Business Succession Planning

- Is there a written ownership agreement?
  - LLC or Partnership agreement
  - Shareholder buy-out agreement

- Valuation method

- Funding the buy-out
  - Cash buy-out, term payment, insurance

- Who will buy whom out?
  - Will your spouse be at the mercy of your partner?
7. Do you have a game plan?

- What is your game plan?
- Have you shared it with anyone?
- Is your information organized and available?
- Passwords and Account information?
Where we are headed

• Probate
• Wills
• Revocable “Living” Trusts
• Estate Tax Planning Issues

• Please Ask Questions
Probate

• What is Probate?
• Why Do I Care?
• What’s the big deal?
How much does Probate Cost?

• Depends on the State
  ▪ California
  ▪ Uniform Probate Code States (16-18 states)

• Depends on many factors
Factors Affecting Probate Cost

- Family members in conflict and disagreement
- Conflicts between co-personal representatives or co-trustees
- Lack of proper estate planning documents (wills, trusts, etc.)
- Children from current or past relationships not provided for in the estate plan
- Out of date estate planning documents
- Assets passing by designation of beneficiary (i.e., life insurance and retirement accounts) to the “wrong” person (underage children, ex-spouses, problem-children, mom, etc.)
- Specific Bequests: not correctly identifying assets to be given away, causing confusion and disputes or making bequests that conflict with the estate plan
- Co-ownership of assets with third-parties (real and personal property)
- Real property not titled correctly, or the title is unclear
Probate

How can a person avoid Probate?

• Do Not Own Any Assets when you die
• Own Assets Jointly with Rights of Survivorship (JTWROS)
• Revocable “Living” Trust
Wills and Revocable “Living” Trusts

- Who needs a Will?
- Different Types of Wills
- What is a Revocable Living Trust
- Comparing Wills and Revocable Trusts
- Which should you have?
Who Needs a Will?

• Parents with minor children
• Parents with adult children
• Parents in second marriages
• Married Couples
• Couples in non-marital relationships
• Persons facing incapacity
• Persons with estates greater than $1 million
• Persons wanting to minimize taxes
• Persons over the age of 18
What happens if there is no Will?

AS 13.12.101 - “Intestate Succession”

• Surviving Spouse gets 100% if:
  ▪ All children are common with Surviving Spouse
  ▪ No surviving other children
  ▪ No surviving parent

• Surviving Spouse gets $200,000 + 75% if:
  ▪ No surviving other children
  ▪ Surviving parent

• Surviving Spouse gets $150,000 + 50% if:
  ▪ There are surviving common children
  ▪ There are surviving other children

• Surviving Spouse gets $100,000 + 50% if:
  ▪ No surviving common children
  ▪ Surviving other children
Do I really need a Will?

- You control who gets what, when and how
- Name a person to be in charge
- Name a guardian for minor children
- Provide for your spouse and children
- Provide for a blended family
- Use a Trust to protect distributions
  - Creditor Protection
  - Children’s divorce
  - Distributions are Controlled or Structured
- No Takers
Types of Wills

- Holographic Wills
- Home-Computer Wills
- Formal Wills
- Can you change a Will?
What is Revocable “Living” Trust?

• A written contract between you and your trustee
• Designed to manage your assets
  ▪ During your life (very important)
  ▪ After your death
• The trust is completely revocable by you
• You remain in control of the assets
• On incapacity or death, the successor trustee takes over control and management
## Wills or Revocable “Living” Trusts

<table>
<thead>
<tr>
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<th>Revocable Trust</th>
<th>Wills</th>
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<tbody>
<tr>
<td>Saves Estate Taxes</td>
<td>No*</td>
<td>No*</td>
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<tr>
<td>Revocable during Life</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Avoids Probate</td>
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<td>No</td>
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<tr>
<td>Provides for Confidentiality</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Incapacity Planning</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Creditor Protection</td>
<td>No*</td>
<td>Yes*</td>
</tr>
</tbody>
</table>
Wills or Revocable “Living” Trusts

Which should you have?

• Do you own assets outside of Alaska?
• Do you do a lot of property transactions?
• Do you want confidentiality?
• Do you want asset management on incapacity?
• Do you want to avoid probate?
• Do you want consistent management during incapacity?
Reviewing Your Estate Plan

How often should your Estate Planning documents be reviewed and updated?

- Births and Deaths
- Marriages and Divorces
- Moving to another State
- Change in Assets or Wealth
- New Life Insurance or Retirement Accounts
- New Tax Laws
Summary

- Estate Planning
- Probate
- Wills
- Revocable “Living” Trusts
Tax Planning

What types of taxes do we need to deal with?

• **Income Tax**

• **Gift Tax** (2023)
  - Gift Tax Rate is 40%
  - $17,000 annual gift tax exclusion
  - Lifetime exemption $12,920,000

• **Estate Tax**

• **Generation Skipping Transfer Tax**
  - Flat 40% for transfers over $12,920,000
Estate Taxes Summary

• Estate Tax imposed on worldwide assets:
  • Investments
  • Business Interests (LLC, corporations, partnerships, etc.)
  • Real Property (home, buildings, cabins, vacation homes)
  • Life Insurance and Annuities
  • Retirement Accounts (IRA, 401K)
  • Cars, RVs, boats, planes, etc.
  • Art, guns, gold, silver, etc.
Rule 1: The Unlimited Marital Deduction

- Tax free transfers between married spouses
  - Applies to Income, Gift, Estate, and GST tax

- To qualify:
  - Surviving Spouse must be a U.S. citizen; and
  - Spouses must be legally married to each other
    - No common law marriage in Alaska
Rule 2: Basic Exclusion Amount

• The amount that passes free from federal estate tax
  ▪ One-time exemption that is available during life or at death

• Credit Amount has increased over time:
  ▪ 2001 $675,000
  ▪ 2009 $3,500,000
  ▪ 2018 $11,180,000
  ▪ 2022 $12,060,000
  ▪ 2023 $12,920,000
  ▪ 2026 $6,800,000 (estimated, unless federal law changes)
Portability of Exemption Amount

• Old Law
  ▪ “Use it or lose it”
  ▪ Required funding a Credit Shelter - Bypass Trust

• Current Law (2011+)
  ▪ **Election** to transfer the first spouse’s remaining exemption amount to the surviving spouse – called “portability”
  ▪ IRS Form 706 must be timely filed after death of first spouse
Why fund a Credit Shelter Trust?

With “portability” some claim a CST is not needed
A Credit Shelter Trust may still be important:

• Avoid Future Estate Taxes
• Creditor Protection
• Medicaid Protection Planning
• Surviving Spouse benefits
• Preserve Plan of Distribution to benefit others
• GSTT exemption preserved
• State estate tax planning (WA, OR, HI, NY, RI, etc.)
What Tax Planning Should I do?

• Update your Estate Planning documents
• If your estate is less than $6M -
  ▪ Likely no federal estate taxes
  ▪ Need dispositive plan in place
  ▪ Plan on filing IRS Form 706 to elect portability
• If estate is greater than $6M . . .
Additional Planning

- Pay college or medical expenses
- §529 college saving plans
- Get life insurance out of your name
- Use the annual gift tax exclusion
- Split ownership interests
- Charitable planning
Charitable Planning.

- Gift of Appreciated Assets
- Gift of Life Insurance
- IRAs and Retirement Accounts
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Gift of Remainder Interest in Residence
- Donor Advised Fund
Disability Planning

Powers of Attorney
- General vs. Limited as to time and scope
- A power of attorney terminates on incapacity unless it is “durable”
- A power of attorney always terminates on death
- More difficult to use today

Revocable Living Trusts (the best option!)

Advance Health Care Directives (living wills)

Third-Party Special Needs Trust
- Used to protect assets from disqualifying a person from needs based governmental aid programs [Medicaid programs]
Alaska’s Community Property Law

AS 34.77

- A different type of asset ownership
- Elective in Alaska
  - Community Property Agreement
  - Alaska Joint Revocable Trust
- IRC §1014(b)(6) – income tax basis adjustment
Meeting with an Attorney

• 4 Big Questions:
  ▪ How do you want your assets distributed?
  ▪ What specific circumstances will affect your estate plan?
  ▪ How can the estate plan be tailored to meet your goals?
  ▪ How can taxes be minimized?
How to be a Good Client

• Be Organized - provide the information requested
• Consider important personal issues before the meeting
• Do not procrastinate
• Carefully review draft documents
• Follow directions
• Stay in contact
• Ask Questions: Estate Planning is complex
Summary

• Estate Planning has many benefits

• The worst mistake you can make is to wait until it is too late!
Who is going to get your wealth?

• Your family? Charity? The IRS?
• The choice is yours
• What are you going to do?
• When will you act?
Remember

• “[A] transaction, otherwise within an exception of the tax law, does not lose its immunity, because it is actuated by a desire to avoid, or, if one chooses, to evade taxation. Anyone may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one's taxes.” Helvering v. Gregory, 69 F.2d 809 (2nd Cir., 1934) (Hand, J.), aff’d 293 U.S. 465, 55 S. Ct. 266 (1935).

• “A good man leaves an inheritance for his children’s children.” Proverbs 13:22