BASIC INCAPACITY & ESTATE PLANNING CONSIDERATIONS
[3P= third party]

I. Documents for Incapacity & to Avoid Guardianship

1. Durable Power of Attorney
   - 3P can take over all non-medical matters for you
2. Health Care Surrogate
   - 3P can make all medical decisions for you
3. Pre-Need Guardian
   - Names guardian of your choice during your incapacity
4. Stand-By Guardian
   - Names successor guardian if guardian unable to serve
5. Do Not Resuscitate Order
   - Tells paramedics NOT to resuscitate you
6. Living Will
   - Tells hospital not to keep you alive artificially
7. Living Trust (Inter Vivos Trust) - revocable/irrevocable
   - Document names trustee of your assets & beneficiaries
   - You can receive income during lifetime from it, and during any period (s) of incapacity
   - Trust assets need to be retitled in trust name
   - Excellent to avoid guardianship, to avoid probate, for family members with special needs, for minors, for large life insurance policies, & may be required to receive/retain govt. benefits
8. Insurance: life, disability, health, long term care, etc.

II. Documents Effective Upon Death

1. Last Will & Testament (probate instructions)
   - Document names your personal representative & beneficiaries for any assets you own alone at death
2. Testamentary Trust (trust in a Last Will & Testament)
   - Trust is established after you die via probate process
3. Living Trust (Inter Vivos Trust) - see above I/7
4. Life Insurance

III. Federal Estate Taxes [Estate and Gift Tax Exemption]

<table>
<thead>
<tr>
<th>Year</th>
<th>Tax Exemption</th>
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<tbody>
<tr>
<td>2002-03</td>
<td>$1 million</td>
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<tr>
<td>2004-05</td>
<td>$1.5 million</td>
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<tr>
<td>2006-08</td>
<td>$2 million</td>
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<tr>
<td>2009</td>
<td>$3.5 million</td>
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<td>2010</td>
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<td>2011-2013</td>
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<tr>
<td>2014</td>
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<tr>
<td>2015</td>
<td>$5.43 million</td>
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<tr>
<td>2016</td>
<td>$5.45 million</td>
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<tr>
<td>2017</td>
<td>$5.49 million</td>
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</tbody>
</table>

IV. Probate (upon death)

Probate, a judicial process, occurs if one dies leaving assets titled in one’s name alone. To avoid probate, one can:
(a) title all assets jointly or in trust for 3P - OR
(b) establish a living trust.

REMEMBER: EVERY ONE IS UNIQUE AND SO IS THEIR FAMILY SITUATION. THEREFORE, A PLAN THAT SUITS ONE PERSON MAY NOT SUIT ANOTHER. CONSULT A PROFESSIONAL TO DISCUSS THESE TOPICS IN DETAIL AND TO LEARN THE ADVANTAGES AND DISADVANTAGES.

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