

Asset Protection and Estate Planning Strategies

财产保护与遗产规划策略

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Executive Summary

概要

- ▶ 2011 Estate and Gift tax Exemption
- ▶ Asset Protection
 - The importance of holding title in real estate
 - Insulating real estate in an LLC (Limited Liability Company)
- ▶ Passing real estate to the next generation
 - What is a living trust
 - Why do I need a living trust

2011 Estate and Gift Tax Exemption

遗产税和赠与税的豁免情况

- ▶ Estate and Gift tax rate is 35% 税率为35%
- ▶ \$5M lifetime exemption during 2011 and 2012
每位被继承人一生的豁免总额为五百万美元
- ▶ Additional \$13,000/person annual gift tax exemption 每位受赠人豁免额度为13,000美元/年
- ▶ Advantages of Making a Gift 优点
 - Reduce future estate tax 减少未来应支付的遗产税
 - Reduce income tax 减少个人所得税
- ▶ Disadvantages of Making a Gift 缺点
 - Loss of Control 失去对财产的控制权

Asset Protection: The Importance of Holding Title in Real Estate

- ▶ Joint Tenancy creates unintended and irreversible problems:
 - Pay more taxes to the government 增加税收支出
 - Loss of control 减少控制权
 - Exposure to the other tenant's lawsuits and creditors 可能承担其他共有人的诉讼、债务风险
 - No backup beneficiary if joint tenant is not alive 共有人过世后，没有其他的受益人
 - Disinherits all other family members 剥夺其他家庭成员的继承权
 - Possible gift tax consequence of 35% 可能需支付35%的赠与税

Asset Protection: Insulating real estate in an LLC

▶ Internal risk: 内部风险

- The property owner is liable for all injuries on the property (e.g. slip and fall)

所有人将对由财产引起的所有人身伤害负责

▶ External risk: 外部风险

- A legal judgment against a property owner will risk all real estate under the owner's name

损失可能波及所有人名下的其他不动产

▶ Insurance is not sufficient protection

Features of an LLC

- ▶ Members and managers are not personally liable for the obligations of the LLC
成员、管理者不对LLC的债务承担个人责任
- ▶ Choice of pass-through or corporate tax treatment 可以选择纳税方式
- ▶ Can be a single-owner LLC 允许一人所有
- ▶ Thus, an LLC is an excellent way to shield your assets from your liabilities and you from your liabilities

Passing Real Estate to the Next Generation

► What is a revocable living trust?

什么是可撤销的生前信托？

- Legal document which avoids Probate Court
法律文件无需遗嘱检验法院的检验
- You decide who receives your assets and how
由您决定谁将获得您的资产，如何获得
- You maintain control of your assets while alive
您在生前依然可以控制您的资产
- A trust is a private document
信托是私人文件
- No separate tax or trust records for the trust
无其他税负或信托登记要求

Do I need a Living Trust?

- ▶ Probate court is very expensive (\approx 4-7% of gross assets) – a living trust avoids probate

遗嘱检验法院的费用非常昂贵（大约为总资产的4 - 7%）

- ▶ For married couples, a trust allows you to pay less taxes to the government

对于已婚夫妇，信托可以减少您的税收支出

- ▶ If you have children under 18, you decide when and how they will receive your money

如果您有18岁以下的孩子，由您决定他们何时、如何继承

- ▶ A trust allows you to transfer your real estate quickly to your family members

信托有助您及时向家人转移不动产

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