

Estate Planning:

An Estate Planning is basically the process of anticipating and arranging for the disposal of an estate during your life which includes planning your succession and financial affairs. In other words it is management & preservation of estate and also estate legacy during and beyond your lifetime.

In India majority of businesses are being run by family and they are generating good wealth but they are ignorant of the importance of preserving the same over generations. The reason is that they have not done their estate planning. This has given rise to legal complexity faced by the legal heirs of the intestate at the time of taking the control of the intestate's business resulting into loss of the business.

Tools available for Estate Planning :

1. Will: A Will is the cornerstone of all estate plans.

Benefits of Estate Planning by a WILL:

- a. Basically it ensures that at the time of your death, your estate is distributed to the people whom you desire to give and use.
- b. Preserves your property and ensures its control by a capable person.
- c. It retains family control over estate and in managing overlap between family and business
- d. It enhances your management plan by realizing the value of the particular asset and reducing expenses.
- e. There can be Effective governance of family and estate holdings
- f. In absence of a will, the estate would be passed on in accordance with the applicable succession laws and regulations. Your estate will be succeeding to your relatives irrespective they being capable to manage the same or not.
- g. It reduces the chances of conflict and avoids disintegration of family members.
- h. It will maintain family relationship and thereby individual shares of family members.
- i. It helps you to financially keep your family stable post your death and thereby complete your responsibilities towards your family.

2. Trust : Setting up trust and transferring assets in trust

Benefits of Estate Planning through a TRUST :

- a. It provides management of the Estate during person's lifetime and also provides for distribution and management of wealth post demise.
- b. It not only protects the assets but also safeguard the interests of the family members.
- c. It would provide immediate or ultimate benefit and use of the beneficiary or beneficiaries for whom the trust is made. It gives family members the benefit of family wealth without losing control over key assets.
- d. It can be made for the benefits of physically or mentally persons who are incapable of looking after your assets or properties.

- e. A charge can be created in favour of female members of the family particularly daughters and the property could be transferred in such a manner so that the females don't inherit the immovable property and still enjoy a fixed monthly income there from.
- f. Bypassing the probate process through Court while ensuring succession from one generation to another thereby protecting privacy by preventing public disclosure.
- g. Creating a legal framework and a tax effective structure for the family assets which will last for a long time;
- h. It centralizes the administrative, investment and recordkeeping and property management functions .
- i. It is flexible as you can amend or discontinue trust.
- j. Allows a person to transfer a property to charity or religious purpose, which could save estate taxes.
- k. Defuses potential conflicts over the distribution of the assets post death.
- l. There is a smooth and efficient handling of assets at a lower cost.

3. Power of Attorney :Arrangement to authorizes any person to act on your behalf during your lifetime.

Benefits of preparing a Power of Attorney :

- a. Attorney you appoint is legally bound to act in your best interests
- b. Attorney will come into effect immediately or on your incapacity and is valid during your lifetime.
- c. When your assets are widespread , you can appoint your attorney in each jurisdiction where you own assets to manage them.
- d. Decision can be taken without delay
- e. It ensures assets protection planning.
- f. You can revoke this person at any time, so you can't just get ripped off by someone.
- g. Power of Attorney for personal care allows the attorney to make health and medical care decisions on your behalf if you become incapacitated and unable to state your wishes.
- h. Under this limited powers related to financial & contractual obligations can also be given to the attorney.
- i. In absence of power of attorney, if you become incapacitated , then choosing your substitute would be stressful , time consuming and expensive too.

4. Family Arrangement : One of the Tool of Estate Planning

A Family Arrangement is an agreement between members of the same family, intended to be generally and reasonably for the benefit of the family, either by compromising doubtful or disputed rights or by preserving the family property or the peace and security of the family by avoiding litigation or by saving its honour.

Benefits of Family Arrangements:

- a. Equitable distribution of the wealth instead of concentrating the same in the hands of a few.
- b. It preserve the family peace and harmony
- c. It resolves disputes among the family members and thereby avoids litigation process
- d. The transaction is not treated as a transfer and hence capital gains tax will not arise.
- e. It is not treated as a gift.
- f. Establishing or ensuring a calmness and goodwill amongst the members of the family.

5. Gifts : One of the mode of gratuitous transfer of wealth to our beloved during lifetime.

Benefits of bequeathing through gift:

- a. Gift transfer takes place during the lifetime of the donor and need acceptance by the donee.
- b. No tax implications if you are gifting property to your relatives like your spouse, children, etc.
- c. Easy mode of transfer out of love and affection to your family members or any relatives, etc

Hence Estate Planning is the foremost judicious step in fulfilling your desire and securing your family's future after your demise.