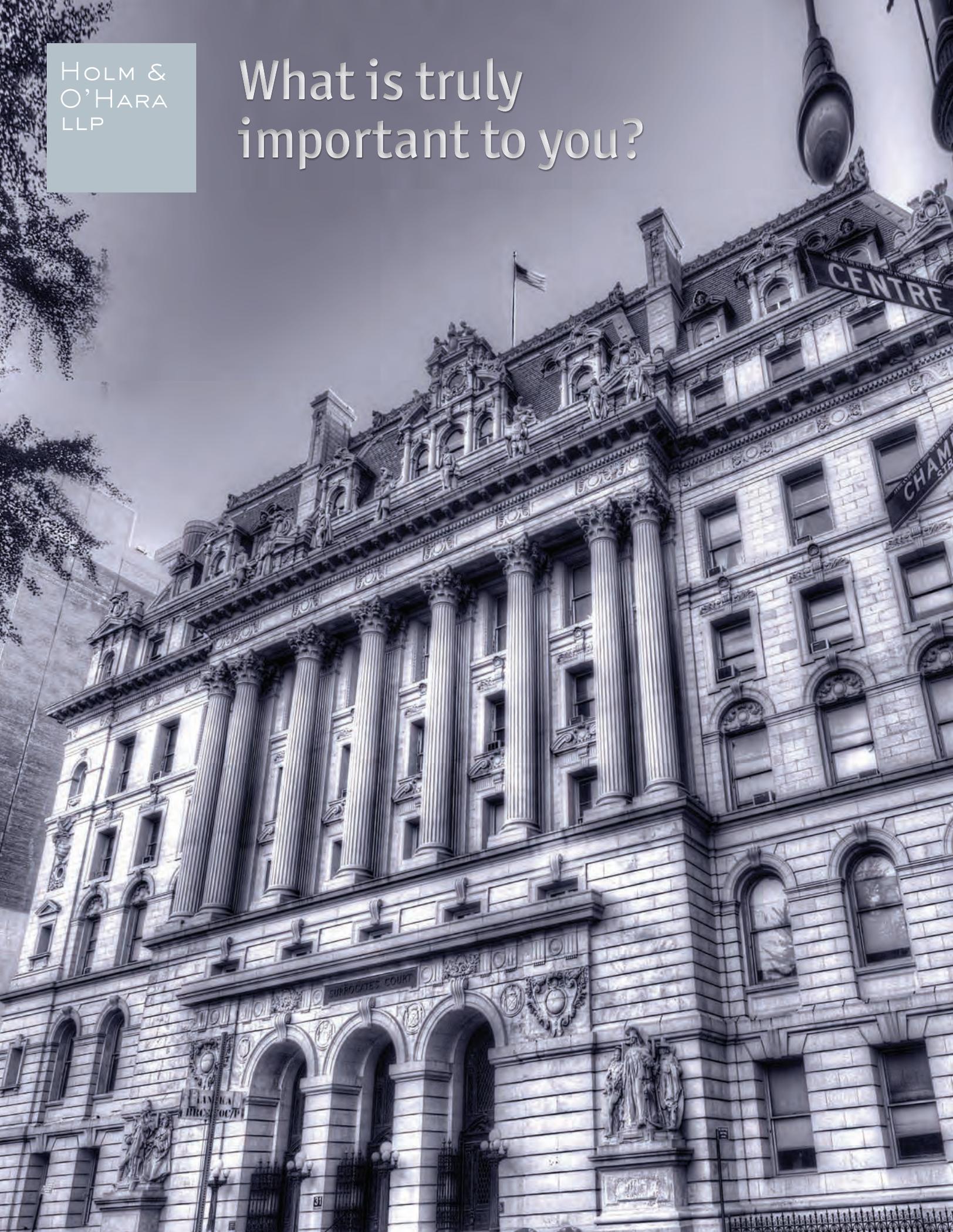


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What is truly
important to you?



A strategic estate plan can provide these and other benefits:

Protect

your assets from taxes and other eroding factors

Express

wishes for your care in case you are incapacitated

Designate

how you wish your assets to be distributed after your death



Plan with purpose

Following these essential steps can give you greater peace of mind.

Envision:

- Wishes for disposition of property
- Intentions for providing for loved ones and favorite causes

Plan:

- To minimize estate and gift taxes
- To ensure that your chosen agents are empowered to act on your behalf
- To provide guidance for your care if you are incapacitated

Execute:

- Create the appropriate legal documents to ensure your vision and plan

Update:

- Revise documents as significant life changes occur — such as births, deaths, marriages and divorces — or as major assets are acquired or sold

Key Terms

- **Administrator:** Someone who is appointed as fiduciary of an intestate estate (i.e., an estate where the decedent died without a will).
- **Asset:** Any item of value, including real property, art, investment products, jewelry and vehicles.
- **Beneficiary:** The designated heir(s) of an estate or asset.
- **Estate Tax:** Tax on the transfer of wealth at death. The federal government and some states — including New York, Connecticut and New Jersey (“inheritance tax”) — levy some form of tax on property transferred after death. The total value of the gross estate is used for the calculation of estate tax, and the net figure is distributed to beneficiaries. For example, in 2017 the federal estate tax exemption amount was \$5.49 million per individual; the NY State tax exemption amount was \$5.25 million per individual.
- **Executor:** The person designated in a will to oversee filing of necessary court documents, marshal the assets of the estate, distribute the assets and close the estate.
- **Fiduciary:** A person — or organization — charged to act on behalf of someone else, particularly in matters with financial implications. Fiduciaries have a duty to act solely in another party’s interest.
- **Incapacity:** Temporary or permanent inability (for physical or mental health reasons) to express wishes, make decisions or conduct business on one’s own behalf.
- **Intestate:** To die without a will.
- **Probate:** The act of presenting a will in court to “prove” it and accept it as a valid legal document and last testament of the deceased.

Estate Planning in Action:

The case studies on this page are based on hypothetical circumstances derived from composite client experiences. They show how estate planning can be an excellent way to achieve a wide range of financial objectives. They are based on a decedent with a date of death after April 1, 2017, a single individual with a net worth of \$10,000,000.00.

Objectives:

- Reduce estate taxes
- Choose dispositive scheme instead of the default by New York State statute
- Nominate guardians for minor children

SIMPLE LAST WILL AND TESTAMENT	
NET WORTH	\$10,000,000
TAXABLE ESTATE	\$4,510,000
ESTIMATED FEDERAL ESTATE TAX DUE	\$1,376,000
ESTIMATED NEW YORK STATE ESTATE TAXES DUE	\$1,067,600
DISTRIBUTABLE NET ESTATE	\$7,555,000

Objectives:

- Minimize federal and state estate taxes
- Reduce future gift taxes
- Transfer residence to a loved one during your life but continue to use and reside in residence rent-free for fixed term of years

QUALIFIED PERSONAL RESIDENCE TRUST	
VALUE OF HOME TO TRANSFER INTO Q.P.R.T.	\$2,000,000
TERM OF TRUST	20 YEARS
§ 7520 RATE FOR GIFT MADE AUGUST 2017	2.4%
INITIAL TAXABLE GIFT	\$720,000*

At end of 20-year term (assuming grantor is still living), the home will then pass to designated beneficiaries at the amount of the gift tax and not the value of the home, which would have appreciated significantly in value over 20 years.

* Counts against gift and estate tax exemption of \$5.49 million.

Objectives:

- Eliminate federal and state estate taxes
- Avoid gift taxes

IRREVOCABLE LIFE INSURANCE TRUST	
NET WORTH	\$ 0
TRUST PRINCIPAL	\$10,000,000
TAXABLE ESTATE	\$ 0
ESTIMATED FEDERAL ESTATE TAX DUE	\$ 0
ESTIMATED NEW YORK STATE ESTATE TAXES DUE	\$ 0
TOTAL ESTATE TAXES	\$ 0
ESTATE TAX SAVED COMPARED TO SIMPLE WILL	\$2,444,000

If an ILIT is created to own the life insurance policy and the proceeds of the life insurance policy are payable to the trustee of the ILIT upon the insured's death, then the proceeds are not included in the insured's estate and, therefore, are not taxable for either federal or state estate tax purposes.

Objectives:

- Minimize federal and state estate taxes
- Protect assets from creditors
- Generate a stream of income
- Donate substantial sum to charity

CHARITABLE REMAINDER TRUST	
NET WORTH	\$10,000,000
TRUST PRINCIPAL	\$5,000,000
DISTRIBUTION FOR YEAR 1 TO BENEFICIARIES	\$250,000
FINAL DISTRIBUTION TO LIFE BENEFICIARIES	\$456,000
REMAINDER TO CHARITY	\$9,300,000
FEDERAL ESTATE TAX	\$ 0
NEW YORK STATE ESTATE TAX	\$ 0
ESTATE TAXES SAVED	\$2,444,560

Assumes growth rate for CRUT of 3%, income tax rate of 5% and distributions of 5%, annually.

Revocable / Grantor / Living Trust:

This is a flexible strategy used when tax planning is not the primary consideration. The grantor transfers all assets into the trust but maintains control (because the grantor is usually the trustee) and retains the right to amend or revoke the trust either partially or wholly, at any time.

Upon the grantor's death, the successor trustee distributes assets according to the grantor's specific wishes without needing to go through the probate process, saving the estate both time and money.



Estate Planning Makes a Difference:

Even the simplest estate plan (a will, durable power of attorney, healthcare proxy and other advance directives) can help ensure that your wishes are carried out. A strategic estate plan that integrates tax planning and asset protection can be even more effective. The chart below provides a snapshot.

	NO ESTATE PLAN	SIMPLE ESTATE PLAN	STRATEGIC ESTATE PLAN (WITH TAX PLANNING & ASSET PROTECTION)
TAXABLE ESTATE	100% after exemption amount	100% after exemption amount	Variable
SUBJECT TO COURT PROCEEDING	Yes	Yes	No (assumption based on proper retitling of assets to negate a probate estate)
DETERMINATION OF ASSET DISTRIBUTION	State laws	Will	Will, trust(s) and other estate plan elements
BUSINESS DECISIONS IN CASE OF INCAPACITY	Interested parties subject to court approval in a lengthy and expensive process to appoint a guardian	Individual designated through Durable Power of Attorney	Individual designated through Durable Power of Attorney or Trustee or Managing Shareholder
HEALTHCARE AND END OF LIFE DECISIONS IN CASE OF INCAPACITY	Next of kin OR Attending medical personnel	Individual designated by Healthcare Proxy	Individual designated by Healthcare Proxy

Holm & O'Hara LLP offers strategic legal support for complex real estate transactions and trusts and estates (and matters that include aspects of both), as well as comprehensive legal services for corporations, closely held businesses and their owners. We work efficiently, using teams to provide the personal attention our clients require. In every instance, we strive to secure the most favorable results for our clients; to apply our knowledge and experience to create solutions that endure beyond the immediate need; and to provide sound counsel to protect our clients' interests.

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Toolkit

The essential estate planning toolkit includes legal documents that express your wishes regarding both your person and your property:

Personal Documents:

- **Healthcare Proxy:** A healthcare proxy appoints a person of your choosing to act on your behalf if you are incapacitated. This person can issue instructions to your healthcare team, authorize or request specific courses of treatment and withhold consent for extraordinary measures to prolong your life.
- **Advance Directives:** This document or set of documents is sometimes described as a "living will." In it, you can express your wishes for the quality of life you want to have, including what measures you wish to be taken to sustain your life under specific circumstances.

Property Documents:

- **Will:** A will is the essential guide for disposition of property and assets after death. It can be fairly general, dividing assets among designees proportionally or by specific amounts. It can also be extremely specific, allowing for detailed instructions for distributing prized possessions.
- **Trust(s):** Carefully conceived and executed trust structures can go beyond a basic will to protect property from taxes, ensure that certain assets — such as investment real estate — continue to provide income for heirs, prevent family disputes and provide for individuals who may not be able to manage financial affairs. Trusts also are not subject to probate, which can save significant time and money.
- **Beneficiary Statements:** Some asset classes — like life insurance policies, pensions and retirement plans — incorporate statements designating beneficiaries. Care must be taken that these remain in alignment with the will; contradictions between the documents can lead to extended probate of an estate.