

# ESTATE AND SUCCESSION PLANNING



# Disclaimer

Please consult your lawyer before implementing any action.

# Index

- Introduction to Estate and Succession planning
- Modes of transfer of Estate
- Who should consider Succession planning
- Importance of Succession planning
- Intestate Death and Lineage
- Transfer as per the personal Laws
- Wills
- Wills and Nomination
- Trust
- International taxation on succession

# What is an “Estate” ?

Everything and anything which includes all the assets and liabilities created and inherited in one’s lifetime.

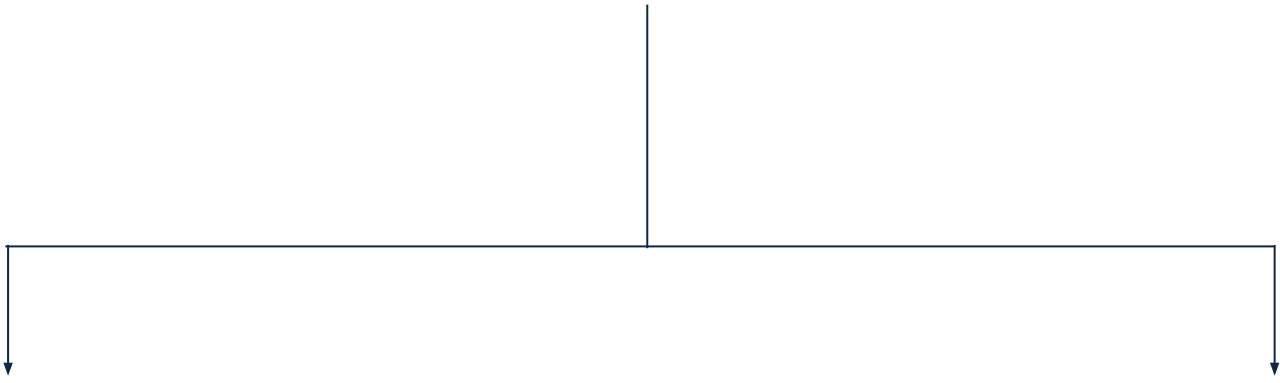
## **ASSETS**

- Gold
- Real Estate
- Financial Assets: Bank deposits, Mutual funds, Shares, Investments, etc.
- Life Insurance proceeds, provident fund
- Vehicles
- Art or any other valuables for that matter

## **LIABILITIES**

- Debts
- Obligation

# Introduction to Estate and Succession Planning



**Estate Planning**

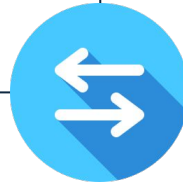
**Succession Planning**



# Who should consider planning succession?

- People with complicated family dynamics
- Joint family and Nuclear Family
- Parents with Minor Children
- Family with specially abled Children
- Family with no Children
- High Net Worth Individuals
- Business Owners
- A person who wishes to distribute Assets as per their wish
- **ANYONE WHO WANTS PEACE OF MIND**

# Modes of Transfer of Property



## **Lifetime Transfers**

Discuss gifts, sales, and trusts as ways to transfer property while the owner is alive.

## **Posthumous Transfers**

Explain transfers through wills, intestate succession, and Nomination.

# What Happens If One Dies Without Succession Planning?

- Family Disputes
- Uncertain Future for Children
- Court Intervention
- Increased Costs
- Delays in Distribution
- Unintended Beneficiaries
- Higher Taxes
- Business Disruptions



# Intestate Inheritance

A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

The Hindu Succession Act, 1956

Applicable to Hindu, Buddhists, Sikhs and Jain

Mohammedan Personal Laws

Applicable to Muslims

Indian Succession Act

Applicable to Christian and Parsi

# Hindu Succession Act, 1956

Rules of Succession  
in the case of  
**Male Hindu**



Rules of Succession  
in the case of  
**Female Hindu**



# Legal Heirs of Hindu Man

## Class 1 Legal Heirs

1. Wife
2. Son/Daughter
3. Mother
4. Widow of Dead Son
5. Children of Dead Son/Daughter
6. Widow of Dead Son of dead Son
7. Children of Dead Son of Dead Son

# CLASS II LEGAL HEIRS OF A HINDU MAN

- I. Father
- II. (1) Son's Daughter's Son/Daughter  
(3) Brother  
(4) Sister
- III. (1) Daughter's Son's Son  
(2) Daughter's Son's Daughter  
(3) Daughter's Daughter's Son  
(4) Daughter's Daughter's Daughter.
- IV. (1) Brother's Son,  
(2) Sister's Son  
(3) Brother's Daughter  
(4) Sister's Daughter
- V. Paternal grandparents
- VI. (1) Father's Widow  
(2) Brother's Widow
- VII. Father's Brother/ Sister
- VIII. Maternal Grandparents
- IX. Mother's Brother/Sister

## AGNATES:

Person should be related by blood or adoption through chain of males.

Father



Brother



Son/ Daughter

## COGNATES:

Person should be related by blood or adoption but not restricted to only males.

Grandfather



Mother



Son/ Daughter

# Legal Heirs of Hindu Women (Self Acquired Property)

- I. (1) Husband  
(2) Son/Daughter  
(3) Children of Dead Children



- II. Legal Heirs of Husband



- III. Mother and Father



- IV. Legal Heirs of Father



- V. Legal Heirs of Mother

# Legal Heirs of Hindu Women (Inherited Property)

- I. (1) Husband  
(2) Son/Daughter  
(3) Children of Dead Children



- II. Mother and Father



- III. Legal Heirs of Father



- IV. Legal Heirs of Mother



- V. Legal Heirs of Husband

# Disqualification as Legal Heir

- **MURDER:** Any person who commits murder is disqualified from receiving any form of inheritance from the Victim.
- **CONVERSION:** If any person has ceased or ceases to be a Hindu by the way of conversion, children born to him/her after such conversion shall be disqualified from inheritance, unless the Children are converted back to Hinduism at the time of Succession.
- **FAILURE OF HEIRS:** The Government shall take the property subject to obligations and liabilities.



# Muslim Personal Law (Shariat) Application Act, 1937

- Funeral Expenses and debt out of property then the property shall be divided.
- There is no difference between inherited and self acquired wealth.
- Only  $1/3^{\text{rd}}$  property can be divided as per the will.  $2/3^{\text{rd}}$  will be as per the Succession Law.
- The female shall receive half of share of the Male.

# INDIAN SUCCESSION ACT, 1925

## Christians, Parsis and Jews.

### **FOR CHRISTIAN:**

- $1/3^{\text{rd}}$  part is given to the Widow.
- Rest  $2/3^{\text{rd}}$  to the children.
- If the Son/Daughter is/are dead, then property shall be given to their Children.
- In case there are no children,  $2/3^{\text{rd}}$  share shall be given to the Father. If Father is not present, then the property shall be given to his kins.
  
- **FOR PARSIS:** Estate is divided equally to the Widow and the Children.

# Benefits of Succession Planning

- Protection of Assets from future disputes and litigation
- Ensures Continuity
- Financial Stability
- Clarifies Wishes and prevents Legal Dispute
- Future proofing and leadership development
- Improves Efficiency by streamlining process and reduces cost
- Inheritance Tax Planning
- Preserving Assets & succession planning
- Facilitates Charitable Goals

# Wills and Codiciles

## Important Definitions:

- **“Will”** means the legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death.
- **“Codicil”** means an instrument made in relation to a Will, and explaining, altering or adding to its dispositions, and shall be deemed to form part of the Will.

# PARTIES TO A WILL

- Testator
- Executor
- Beneficiaries
- Guardians
- Trustees
- Witnesses

# Who can write a will

- Sound Mind
- Must be an Adult
- Free Will
- Should understand the contents of the Will.

# How to Make a Will

- CLEAR Expression of Intentions
- Avoid complications
- Attach Doctor's Certificate
- Executor
- Legal Formalities as jurisdiction and Country

# Process to claim Inheritance

- Letters of Administration – In Case of Interstate
- Probate / Succession Certificate



# WILL V/S. NOMINATION

## Legal standing

### **Will:**

- A will is a comprehensive estate planning tool that takes precedence over nominations.
- It is legally binding and can be contested in a court of law.
- The executor named in the will is responsible for administering the estate according to the testator's wishes.

### **Nomination:**

- A nomination is a simpler directive and typically has a limited scope.
- It is generally considered a temporary arrangement until the legal heirs can be determined.
- In many jurisdictions, a nomination does not override the provisions of a will. The ultimate ownership of the asset will be determined by the will or by the laws of succession if there is no will.

## TRUST IS GOVERNED BY THE INDIAN TRUST ACT, 1882.

➤ Section 3 of the Indian Trusts Act, 1882,

“A trust is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.”

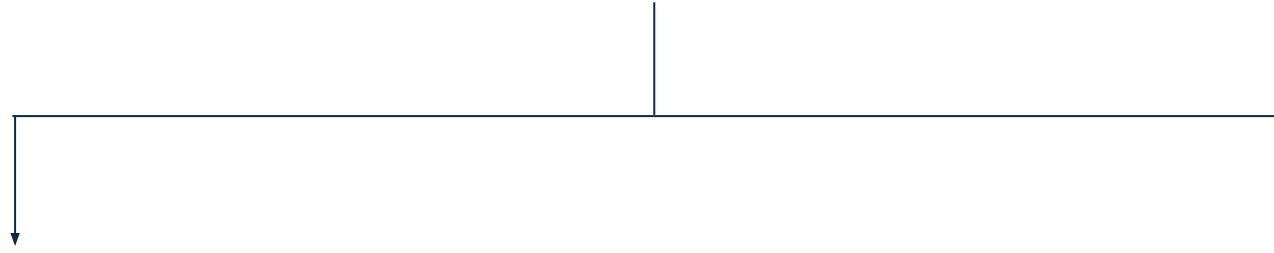
# Types of Trusts

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1. Private Trust

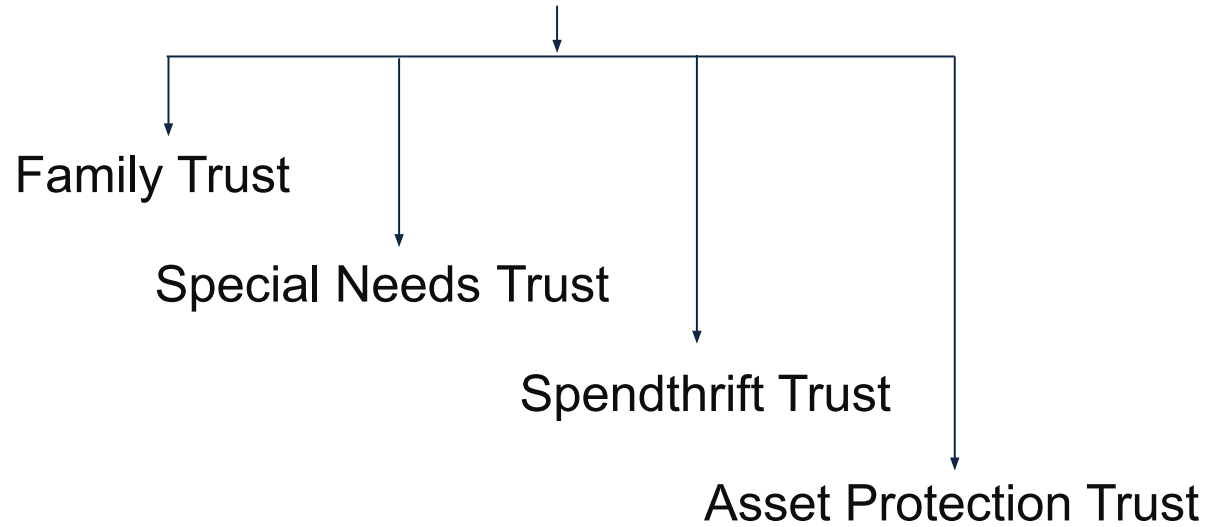
2. Public Trust

# Types of Trusts



## 1. Private Trust

## 2. Public Trust



# Parties Involved in a Trust

1. Trustor (Settlor)
2. Trustee
3. Beneficiary
4. Protector (Optional)

# Private Trust

1. CONTROL
2. PROTECTION
3. TAX BENEFITS
4. PRIVACY

TRUST





TRUST



Irrevocable

Revocable

Specific

Discretionary



# Benefits of trust

- Protection against inheritance tax / Court fees
- Smooth Transition of Assets
- Strong governance mechanism can be established.
- Privacy
- Protection from matrimonial disharmony
- Retaining control
- Limited role of court
- Distribution based on specific needs
- Issuing letter of wishes to the trustee to guide them with respect to the management of trust property and distribution.

# Countries with Tax Implications on Inherited

## **Inheritance Tax:**

- ★ United Kingdom
- ★ France
- ★ Japan
- ★ Italy

## **Inheritance and Gift Tax:**

- ★ Germany
- ★ Spain

## **Inheritance Tax and Estate Tax:**

- ★ United States

## **No Inheritance Tax:**

- ★ Australia

*Thank  
you!*