Estate Tax Credit

The phase in of the estate tax credit is as follows:

For Decedents Dying and Gifts During	Applicable Exclusion Amount
2012	$ 5,120,000
2013	$ 5,250,000
2014	$ 5,352,000
2015	$ 5,430,000
2016	$ 5,450,000
2017	$ 5,490,000
2018	$11,200,000

Special Needs Trusts

What are they? Funding vehicles that allow individuals to stay qualified for Medicaid, Social Security Income/Medicare, and other medically needy programs. There are many advantages to establishing a Special Needs Trust for purposes of reducing countable assets in order to qualify for SSI, but more importantly for the Medicare and Medicaid benefits that come with that qualification. Assets in these trusts cannot be used for certain things without a penalty- food and shelter are excluded uses.

There are basically two different types of Special Needs Trusts—"D4A Trusts"

1. Self-settled Trust or Disability Trust: 42 U.S.C. 1396p(d)4(A). Must be under 65 years old to establish this trust. These are best for our SSI issues. The beneficiary must be disabled. The trust is funded with the beneficiary's own money/assets. It can be established by self, a parent, grandparent, legal guardian or the court. The beneficiary can now establish the trust herself. The assets cannot be used for food or shelter without penalty or reduction of social security of benefits. Upon the beneficiary's death, the trust must provide repayment of Medicaid assistance paid on behalf of the beneficiary from any remaining assets in the trust. Irrevocable.
    a. (d)4(B): Qualified Income Trusts: Not really the same as SNTs; we will discuss these below.
    b. (d)4(C) Trusts: Pooled Trusts- Disabled. Often used for Beneficiaries 65 years of age or older or for small amounts of assets. The Pooled Trust is a resource for those who otherwise could not afford such a transaction. Unlike an (A) trust, it can be established by the individual. Otherwise, same rules as (A) trusts.
2. Third Party Special Needs Trusts:
    a. Created by a parent or grandparent with the third party's assets (not with assets of the Beneficiary). It is created by another for the benefit of a disabled family member (not a spouse). Can be established during the grantor's lifetime, at their death (testamentary trust), or through an intervivos gift. Beneficiary cannot have authority to control assets. No requirement to repay Medicaid, but it is still a supplemental trust (no food or shelter without a penalty or reduction in social security benefits).

Other Planning Tools-