

# Estate Planning Considerations – “Future Implications for your Family”

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## Tax Planning Basics

- Get good advice
- Inventory your assets
- Update Will, Power of Attorney and Health Care Proxy
- Consider Long Term Care Insurance



## Estate and Gift Taxes

- A. Unified Transfer Tax
- B. Annual Exclusion Gifts - \$13,000 per donee
- C. Federal Unified Credit-\$3.5 Million – 2009  
Repeal (no tax) – 2010  
\$1 Million – 2011
- D. NYS Unified Credit - \$1 Million
- E. Marital and Charitable Deductions



## Mitigate Estate and Gift Taxes

- Spend It
- Gift It
  - Children
  - Grandchildren
  - Charity
- Consider Limited Liability Companies (LLCs) and Family Limited Partnerships (FLPs)



## Estate Tax Planning for Spouses

- No tax at first death
- Loss of spouse's unified credit

### Example of Failure to Plan 2011:

Joint Family Assets = \$2,000,000.00

- Husband dies; all to wife with no tax
- Wife dies; \$2,000,000.00 to children
- Tax on her death = \$435,000.00



## Credit Shelter Trust in Will

- Separate assets between spouses
- First to die leaves Estate to spouse, in Trust for life with remainder to children
- Max out unified credit
- No Tax at second death



## **Major Threats with Oil & Gas Leases**

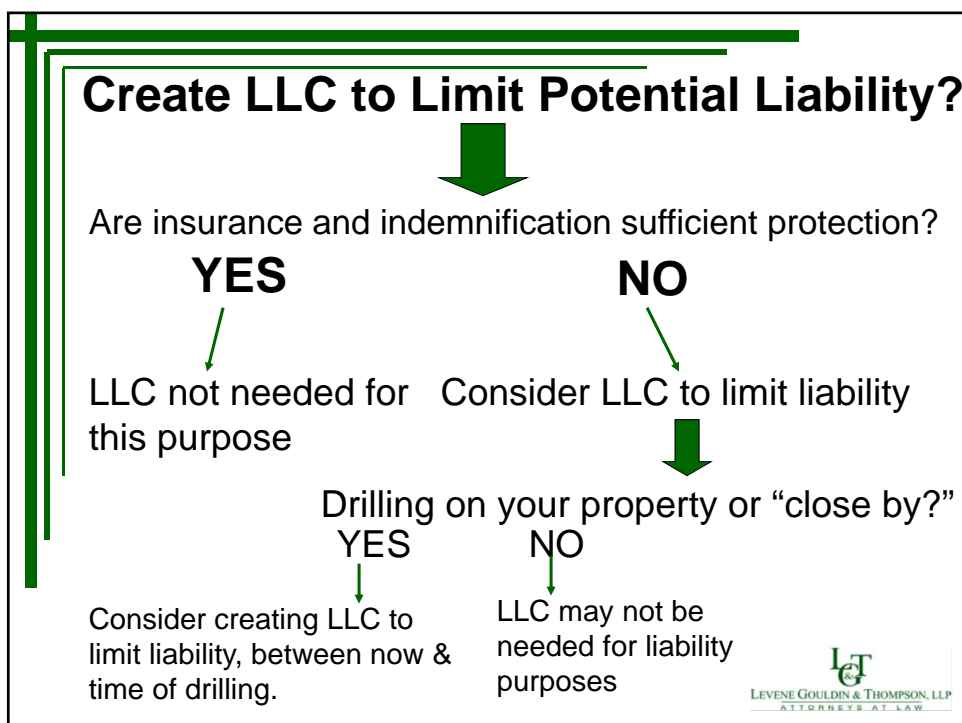
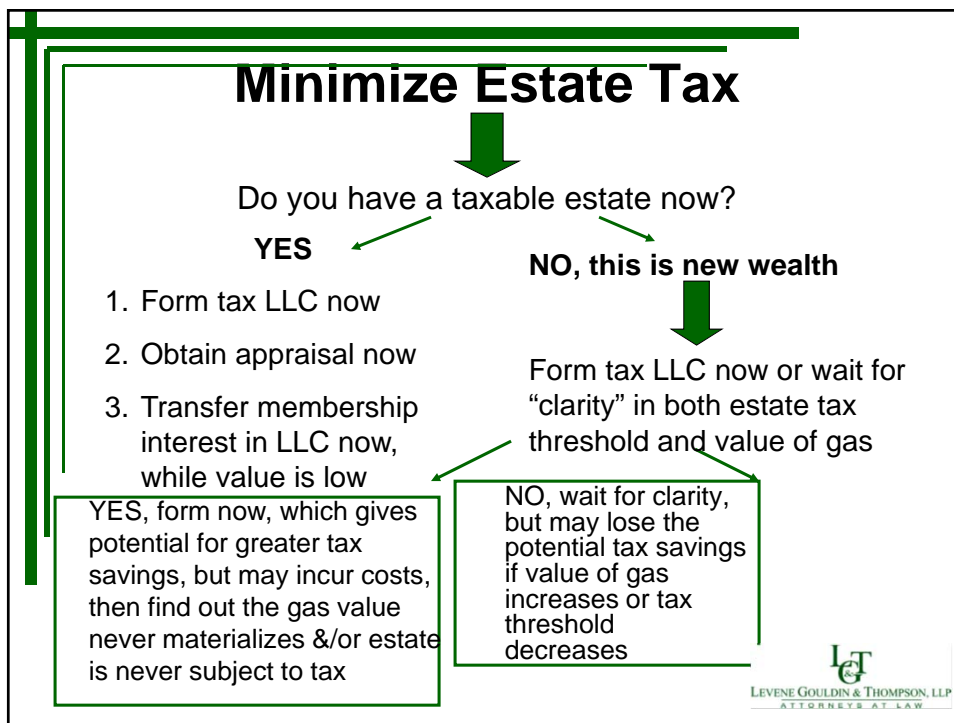
- Income Taxes
- Estate Taxes
- Liability
- Management/Succession Issues



## **What is a Limited Liability Company or a Limited Partnership?**

- Separate Legal Entity
- Income Flows Through to Owners
- New York – LLC's
- Pennsylvania – Family Limited Partnerships because of Capital Stock Tax






## Management, Control and Succession


Who owns the property?

Spouses	One Person
<p>A. Management &amp; Control</p> <ul style="list-style-type: none"> <li>-Who makes business decisions regarding drilling on your land?</li> <li>-Who controls income distribution?</li> <li>-Who shares in the income and when? (In-laws? Grandchildren?)</li> <li>-When are children included &amp; in what percentages? (Income follows % of ownership)</li> <li>-Do you include a minor grandchild for estate tax planning?</li> </ul> <p>B. Succession</p> <ul style="list-style-type: none"> <li>-Who manages the business after you are gone? One manager? Board of Managers represented by each child's family line?</li> </ul>	<p>A. Must (re)consider estate plan. If no Will, NYS has a "default" estate plan for you.</p> <p>B. Consider future change in status (pre-nuptial agreement)</p> <p>C. Leave to a charity – what will it accept?</p> <p>D. Specific devise – be sure of what you are giving: surface? subsurface? royalty?</p>

  
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## Sever Surface and Subsurface

- Future Plans for Property
- Is the ultimate ownership of the Surface expected to be the same as subsurface?
- Ability to sell Surface only

  
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## **Closing Thoughts**

- Hire competent professionals
- Focus on family goals and dynamics
- Consider tax planning
- Consider desire to maintain control of asset
- Beware family “experts”
- Take the time to do it right
- Review your plan every 3-5 years
- Spend your children’s inheritance