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A LAW CORPORATION



Planning For The Future

Information and Answers to
Common Questions
About Estate Planning,
Living Trusts, and Wills

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What is Estate Planning?

Estate Planning is the very important process everyone should go through in order to be prepared for one's inevitable, and sometimes unexpected, death. Most of us are fortunate enough to have families that we would like to take care of and friends that we would like to remember with a gift upon our passing. What you own and what your familial obligations are will help determine what kind of estate plan you should have. *An estate plan is a gift to your family.* Between probate and taxes, your family may spend lots of time and enormous sums of money that could have been saved by an effective estate plan. Your survivors will have a much easier time both emotionally and financially if there is an estate plan in place before your demise.

Why have an Estate Plan?

1. Maintain control over who receives your assets when you die.

If you have not done any formal planning prior to your death, the State of California will tell your heirs who gets what, and how much of your estate they will get. This can result in gifts you would rather not have given, or the avoidance of gifts that you would like to have made.

2. Estate Tax Reduction or Elimination.

At this time, the Federal Estate Tax Exemption is such that the vast majority of estates will not be subject to taxation. However, in those cases where estate taxes are a concern, proper planning can increase the likelihood of minimizing or eliminating your estate's liability for such taxes.

3. Probate Avoidance.

Probate is expensive. There are fees to be paid to the Executor of the estate, and to the attorney handling the probate as well. Anyone who owns real property in Southern California should seriously consider having a Living Trust to avoid the costs and delay of probate. For example, a \$500,000.00 estate, a value easily attained if one owns a home in Southern California, will have probate fees in excess of \$25,000.00. Probate is also time consuming. It is common for a probate case to last a year or longer before assets are distributed.

4. Conservatorship Avoidance.

If you become incapacitated and cannot manage your affairs, a properly crafted estate plan can avoid a conservatorship. A properly drafted Living Trust includes detailed instructions on how your property is to be managed for your benefit during your incapacity. Without this, your loved ones would need to petition the Probate Court to appoint a conservator for you to manage your affairs. This can be a costly process.

Living Trust or Will?

While a will based plan can accomplish many of the same goals that a trust based plan can accomplish, a will based plan is hindered by the fact that the provisions of a will do not take effect until you die. Thus, a will based plan cannot avoid conservatorship should you become incapacitated, nor can it avoid probate. Each of these can only be accomplished by a trust based plan.

In addition, and for many this is a very important issue, a will is a public document filed with the court and accessible by anyone. Thus, upon your death, anybody who wants to can learn who your heirs are and how much money they will be receiving. This creates an opportunity for predators to take advantage of your loved ones. A trust based plan avoids this publicity since your trust is not a public document.

Accordingly, we recommend Revocable Living Trusts as the foundation for most estate plans. A Living Trust offers complete control to you during your lifetime, provides for you and your loved ones in the event of your incapacity, and on your death allows you to pass your assets to your loved ones without the costs, delays, and publicity associated with probate. A Living Trust can give you the peace of mind to know that you have a comprehensive, personalized, and thoughtful plan in place for your own protection in case you become incapacitated and also for the benefit of your loved ones after you are gone.

Is a Living Trust Expensive?

While a Revocable Living Trust is typically more expensive than a Will, an effective Living Trust provides value far in excess of the cost to set up and maintain it. Consider the costs of:

1. Forcing your family to go to probate court should you become incapacitated. This alone could run into the tens of thousands of dollars.

2. Paying for probate executor fees and attorney fees, possibly in multiple states. Again this can easily run into the tens of thousands of dollars. Remember the above example where a \$500,000 estate would pay in excess of \$25,000 in fees. If the estate is worth \$2,000,000, then the fees would be in excess of \$66,000.

3. Paying estate taxes. For those estates where estate taxes are an issue, a proper estate plan can easily produce savings in the hundreds of thousands, if not millions, of dollars.

When should you have a will?

For the reasons indicated above we rarely recommend a will based estate plan, and even more rarely an estate plan limited to only a will. However, that is not to say that a will is not important. Even in a trust based estate plan a will is a necessary and integral part of the total plan. Thus, the simple answer to this question is, "You should always have a will."

Your Estate Plan should match your estate planning needs.

We have a competitive pricing plan and offer comprehensive estate planning to cover your needs whether your estate is small and your needs are simple, or whether your estate is large and your needs are complex.

When you retain an estate planning attorney you are creating a relationship that should last a lifetime, and you are choosing the attorney who will craft the plan that your family will live with after you are gone. You are also choosing the advisor upon whom your loved ones will likely depend at one of their

most difficult times. This choice should be entered into wisely.

John S. Morris, who is our primary estate planning attorney, is a member of both the Los Angeles County Bar and California State Bar Association's Trusts & Estates Sections. John is also a member of both WealthCounsel and ElderCounsel. Those organizations are nationwide collaborations of trusts and estates attorneys, and other legal, tax, and business professionals, which ensures the most sophisticated planning techniques are always available to our clients.

Principles of Effective Estate Planning

- 1. I want to control my property while I am alive.*
- 2. I want to take care of myself and my loved ones if I become disabled.*
- 3. I want to give what I have to whom I want, the way I want, and when I want.*
- 4. If I can, I want to save every last tax dollar, professional fee, and court cost possible.*

This pamphlet is provided for informational purposes only. Any person contemplating the creation of an estate plan should seek the assistance and advice of a qualified, licensed attorney.

(Revised 04/2014)