

# THE FAMILY WEALTH PLANNING SOURCE

FEBRUARY 2018 NEWSLETTER

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## *This February . . .*

When we think of February, it's hard to overlook the importance of Valentine's Day. It's a day to tell those we love just how much they mean to us. While Valentine's Day is a manufactured holiday, it does provide a great opportunity to show our love for one another.

This year was the first Valentine's Day that my 2 year old actually understands. The look on her face was priceless when she got a goody bag with clothes and candy. The priceless look had less to do with the clothes and more to do with the candy. She loved giving her mom and dad their Valentine's Day bag (which contained candy that she will ultimately eat).

Even in a 2 year old, it was easy to see the love and joy of giving a gift. Maybe that was because she knew that she would get to help

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open it. Or maybe it had to do with the fact that she would get little chocolate "prizes". Whatever her motivation, it made my heart happy to see how much she enjoyed the whole process and how much she loves us.

It reminded me that we should be grateful for every day that we are alive. We should tell those most important in our lives how much they mean to us **daily!** It shouldn't take a special holiday for us to express our love and devotion... My goal this year is to remember that every single day.

## *What's New With Me - Attorney Ad Litem*

Recently we attended a guardianship certification course that allows us to serve as a court-appointed attorney ad litem for incapacitated adults and minor children. The certification course explored guardianships and alternative methods to handling financial and personal management of an incapacitated person.

The Courts and the law strive to use all available alternative methods and services short of a court-approved guardian. Due to this preference, it is all the more important to execute your financial and medical powers of attorney, a declaration of guardian in the event of incapacity, and mental health instructions.

In all guardianship cases, an attorney must be appointed to represent the interests of the proposed ward. The role of this attorney ad litem is to make sure that the court-appointed guardian of the incapacitated person is fit to serve as such. It is possible for the court to appoint two different guardians for one person, a guardian of the person and a guardian of

the estate. Since the guardian is awarded so much power, it is imperative that the rights of the incapacitated person be zealously protected.

If you or someone you know needs a guardian, give us a call to discuss your options. Together we can put a plan in place that fits your needs.

## *Tip of the Month*

### Lifetime Gifting

Since February is a month of giving, I thought it would be pertinent to discuss the topic of lifetime gifting. Making gifts during one's lifetime is a common estate planning strategy that can also serve to minimize transfer taxes upon your death. In certain situations, giving property to your heirs during your lifetime can be more advantageous than waiting until your death.

First and foremost, making a lifetime gift affords you the satisfaction of seeing the recipient enjoy your gift. For many people, gifting is used to minimize transfer taxes. Each person can make annual gifts of \$15,000 (\$30,000 for married couples) without triggering any gift tax. These gifts can be made to any number of people so long as any one individual does not get more than \$15,000 (or \$30,000 if you are married). As an example, you can give away \$150,000 this year if you chose 10 different people to receive \$15,000 each. Again, double those numbers if you are married.

Another advantage is that property you give

away during your lifetime that is expected to appreciate in value removes the future appreciation from your taxable estate. This is more important for individuals that are at or above the estate tax exclusion amount (currently \$11,200,000 per person).

As with anything, lifetime gifting does have its disadvantages. Generally speaking, if you give property away during your lifetime, your tax basis in the property is carried over and the recipient takes the property subject to your tax basis. So, if you give your \$1 million home that you purchased for \$15,000 to your brother, your \$15,000 basis carries over to your brother. If he sells the house immediately, income tax will be due on the resulting gain of \$985,000.

Contrast this with waiting until your death to give your \$1 million home to your brother. In that scenario, your brother will get a "stepped up" basis in the property equal to the property's fair market value at the time of your death. So if the home you purchased for \$15,000 is worth \$1 million

when you die, your brother gets the property with a tax basis of \$1 million. If he immediately sells the home for \$1 million, he will pay no federal income tax.

Remember that the federal gift tax exclusion allows you to give \$15,000 a year to as many individuals as you want gift tax free. If you are married you can elect to gift split, which allows you to give \$30,000 a year to as many individuals as you want gift tax free.

If you are contributing to a child or grandchild's Section 529 college savings plan, you can give \$75,000 in 2017 gift tax free, though you will have to report the gift over a period of five years. If you and your spouse contribute together, this amount is \$150,000.

An important exception to the gifting rules

apply when you pay a medical or educational institution directly on behalf of a recipient. If made directly to the institution, there is no gift tax consequences regardless of the amount paid. This means that you can pay for tuition and fees, medical procedures, and hospital visits. **You can also pay for health insurance premiums for a recipient and not be taxed for gift tax purposes.**

In making lifetime gifts to heirs, you must factor in all of these things in order to make the best decision for your situation. For some it makes a lot of sense to give away property during his or her lifetime. For others, it is more advantageous to give away property at death. If you have any questions about your specific situation, please give Green Law, PLLC a call today at (806) 548-2953.

## ***Favorite Feel Good Moment***

### Dismissal of a Lawsuit

I had a client that came in who was being sued for back-taxes owed on a mobile home and the property the home was located on. According to the lawsuit paperwork, taxes had not been paid since 2011.

My client explained to me that he had not had the property since 2003 when he surrendered it to the lender in bankruptcy. The lender was supposed to update the public records with the State of Texas to show that my client no longer had any ownership interest in the mobile home or the land.

Due to the lender's failure to make the proper updates (and this happens all too frequently), my client was sued by the taxing authority for the county, the school district, and the hospital. The lawsuit asked for more than \$3,000.00 in back taxes.

When he came to me, he was in a panic. It is not easy for most people to come up with \$3,000.00 in a few weeks. Moreover, he felt as if he shouldn't have to pay them since he was not the owner of the property during the tax years of 2011 through 2016.

I explained to him that I thought we had a

really good chance of being able to get the lawsuit dismissed if we simply showed the taxing authority and its lawyers that my client have the property up more than 10 years ago.

We filed an answer asking the Court to dismiss the lawsuit. The lawyer for the taxing authority then filed a Motion to Dismiss the suit and the Court signed an Order saying the same.

It is always a good day when I can call a client with good news. I let him know that the case was dismissed and that he did not need to worry about coming up with the money or worrying about a lengthy drawn out court battle.

He was overjoyed and thankful. I was thankful to that he had the trust and confidence in me to get the job done.

## *Calendar of Events*

February 2018 – March 2018

February 19 – President's Day (Office Open)

February 27 – Wealth Building Investor Seminar

March 1 – Dallas Meeting Day

## *Administrative Announcements*

### Investment Seminar: Wealth Building

Green Law, PLLC is proud to announce that Sean Green has been asked to speak at an upcoming wealth building seminar on Tuesday, February 27th. The seminar will be focused on wealth building and wealth creation through the purchase of rental real estate.

Sean has been asked to speak about proper formation of limited liability companies (LLCs), best practices and uses of LLCs, and how to provide yourself as much liability protection as possible. Other topics will include mortgaging options for the purchase of your first or fiftieth investment property as well as creative financing solutions for new and experienced

investors.

Adult beverages and hors d'oeuvres will be served. The seminar begins at 6:00 and will conclude around 7:30. We would love to see you there and feel free to bring a friend as the seminar space is large.

I am confident that you will learn at least one new thing that you did not know coming in whether it relates to LLCs, mortgaging, or creative financing.

We would love to see you there. Contact us if you are interested in attending and we will provide you a link to register. See you then!!

## *Contact*

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