THE FAMILY WEALTH PLANNING SOURCE

NOVEMBER 2018 NEWSLETTER

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This November . . .

November is a month to give thanks. We are all thankful for our families, a roof over our heads, food on the table, our health, etc. It is amazing that it takes a special month of the year for us to reflect on the things that make us the happiest and provide us with the most fulfillment in our lives.

I am thankful each and every day to have a loving wife and two beautiful daughters. I am thankful for my wonderful family that loves me unconditionally. I am grateful that I am part of a profession that truly helps people solve problems. I get no greater joy from my work than to see the happy faces of my clients when solutions to their problems are achieved. The sense of relief my clients feel is overwhelming at times. I am always fulfilled when a client or a family member of a client tells me that I have provided them with peace of mind.

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What are you grateful for this holiday season? I would encourage you to write down those things, tell those closest to you what they mean to you, and always strive to be grateful and thankful each and every day. It is so easy to get caught up in the trivial things that life throws our way. At the end of the day, none of it really matters. At least not to me…

Have a wonderful and happy Thanksgiving holiday! I wish you and your family the very best during this special time.

What's New With Me – NING Trusts

I am now able to offer my New Mexico clients Nevada Incomplete Non-Grantor ("NING") Trusts. This probably sounds confusing and they certainly can be. For my clients in Texas, these trusts are not necessary. This is because the main function of a NING Trust is the avoidance of state income tax. Since Texas does not impose a state income tax, these trusts are irrelevant for those of you that live here.

I have a number of very high earning clients that live in the State of New Mexico. Some of these clients have accumulated a large number of company stock shares throughout their employment. While company stock is a great incentive for employees, there comes a time when these shares must be sold, either at retirement or if the need for liquidity arises.

Since most of these shares of company stock are acquired at little to no cost, sales proceeds are subject to capital gains taxes at the state level.

These NING Trusts help the client avoid the state income tax issue because the shares are transferred to a trust in a state that does not have income tax. For one client, he will save approximately $140,000 in state capital gains taxes at his retirement.

Call us today if you would like to know more about NING Trusts.

Tip of the Month

Probate Avoidance

After a will has been admitted to probate through court proceedings, the executor that was nominated in the will receives the legal authority to act on behalf of the estate. What does this mean to the executor? What must the executor do? This article will address some of those concerns.

If you are qualified as an "independent" executor, you may act independently of control by the court going forward. Texas was the first and for a long time was the only, state that permitted a person to name an executor and at the same time permit that executor to act totally independent of court control.

As the executor, you are the representative for the purposes of terminating the deceased's affairs. This is called "administration" and requires you to locate, identify, collect, and assist in the valuation of the deceased's assets; to prepare an inventory listing those assets; to locate and identify creditors and pay debts, expenses of administration, and taxes; and to distribute the remaining assets to the beneficiaries named in the deceased's will.

An executor is deemed to be a fiduciary under the law, meaning the executor has a duty to deal fairly with creditors, heirs, and beneficiaries of the estate and to carefully manage the estate for the benefit of the heirs. It is important that the executor remember to never commingle the assets of the deceased with the executor's own assets.

After qualifying as the executor, the executor should first take possession of the deceased's assets, valuable papers, and records and safeguard the deceased's property.

The next step is that the executor must publish a notice to creditors in a newspaper of general circulation within thirty (30) days of being appointed as executor.

Within sixty (60) days following the date the executor is appointed, the executor must send notice by certified mail to all beneficiaries named in the will and provide them with copies of the will and order.

Within sixty (60) days after the appointment of the executor, the executor must send notice by certified mail to any creditors whose notes are secured by liens on real estate or automobiles or other personal property.

Within ninety (90) days after the qualification of the executor, the executor must file an inventory, appraisement, and list of claims with the court.

After all known debts and taxes of the deceased have been paid, the executor may then distribute the remaining assets to the appropriate beneficiaries.

The administration of the estate is an essential and very important process. It clears title to real estate. It settles legitimate debts (and wipes out others). It establishes a new income tax basis for the deceased's property as well as for the community property interest of a surviving spouse. It permits clear title distribution of property to the person entitled to receive it under the terms of the will.

For all of these reasons, being named executor is a very important job with many important tasks that must be completed. You are required to have an attorney for all probate proceedings. There are ways around these stringent rules, but you must actively plan for it.

Call Green Law, PLLC today at (806) 548-2953 if you need help with probate. If you want to completely avoid it, that can be accomplished with a little bit of planning.

Favorite Feel Good Moment

Finalizing a Divorce

I have a client that recently finalized her divorce from her husband. I represented her throughout the entire process. After a lot of fighting, hearings, and mediation, my client was able to get all of the property that she was entitled that he ex-husband was keeping from her.

She looked at me with tears in her eyes and said that she was so thankful that we had met. She told me she appreciated my empathy, sympathy, and caring way.

What I enjoy most about my job is when a client thanks me, gives me a hug, or cries happy tears because we were able to resolve the case in a manner that they approved of.

This particular case involved several tracts of disputed real estate, retirement plans, vehicles, and personal property. The parties had fought for nearly a year to resolve their disputes. While the husband's attorney and I repeatedly told our clients that it was only costing them money by fighting, the parties insisted on fighting about things on principle.

After everything was said and done, my

was able to get what was rightfully hers and probably a little more. However, she was still not totally satisfied but could live with the result.

The ex-husband was in the same position… not completely satisfied but could live with it. I am sure that he was as grateful for his attorney as my client was for me.

It doesn't change the fact that my client thanked me multiple times. She was then just as happy to actually receive the property she was awarded, which took additional legal action.

Bottom line is that cases like hers are what I strive for with each client. I want each person to feel that I have zealously represented them and that I worked as hard as I could for them. She certainly thinks I did and I thank her for that.

Calendar of Events

November 2018 – December 2018

November 22 – Thanksgiving
November 23 – Office Closed
December 7 – D Day Observed

Administrative Announcements

Old Estate Planning Documents/Estate Tax Provisions

We have recently seen a number of clients with old estate plans. Some of these estate plans are 4 or 5 years old and some are 20+ years old.

Despite the various ages, they all have one thing in common…. estate tax savings provisions. These provisions include the creation and funding of various trusts at one spouse's death. While these provisions were previously needed, they are of little use today.

In 2018, the federal estate tax exemption amount is approximately $11.2 million **per person!** For married couples, the amount is doubled to $22.4 million. This means that absolutely NO ESTATE TAX is due for virtually all of us. The few that are fortunate enough to have that kind of money do need these provisions.

The biggest problem these estate tax provisions cause is unnecessary administrative costs and burdens by requiring the surviving spouse to create and fund multiple trusts that provide no benefit.

If you have a plan that includes these provisions, YOU MUST REVIEW IT ASAP!!

Contact

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