



Current Events Update

for Financial Advisors

Estate Planning | Estate Settlement & Probate
Asset Protection | Litigation | Real Estate

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on the cover

This Norman Rockwell type photo is actually a photo of one of our long time employees who had a monumental birthday this year. We appreciate being able to use this nostalgic photo as our cover.

Can you guess who the employee is?

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THE ANDERSEN FIRM, Attorneys at Law

Law isn't just our profession, it is our passion. You and your clients will thrive from the distinct advantage of being represented and counseled by attorneys who are at the top of their profession. You get a partner and a teammate when you and your clients work with The Andersen Firm. Together we build relationships, developed and nurtured by our attorneys and their highly skilled and accessible team. These will be the relationships you value and trust, year after year.

As a financial advisor working with The Andersen Firm, you will receive guidance on how to position wealth management with your clients, suggested talking points that open communication and strengthen your relationships with your clients, and successful marketing ideas. This team approach allows us to develop a deep understanding of the clients' wishes, intentions, and goals enabling us to provide sophisticated, creative, and practical approaches to solving the most pressing questions. These strong relationships grant financial advisors and our mutual clients with the service of a boutique firm with the strength and experience of a giant.



Joleen Searles | Management Team

Joleen Searles is the managing attorney in our West Florida and New York Offices. In addition, she manages the high net worth and ultra high net worth planning for the firm. Joleen focuses her practice in the areas of Estate Planning, Estate Settlement & Probate, and Asset Protection. She earned her LL.M. from the University of Miami, her J.D. from Hofstra University and her B.S. from the University of Virginia. She is admitted to practice in Florida, New York and Tennessee.



Sean Sheppard | Management Team

Sean Sheppard is the managing attorney in our South Florida Office. He focuses his practice in the areas of Estate Litigation, Commercial Litigation, Civil Litigation, Real Estate Transactions and Real Estate Litigation. He served four and one-half years as Judge Advocate General in the United States Navy. He earned his J.D. from Nova Southeastern University and his B.S. from Stockton State College. He is admitted to practice in Florida, New York, New Jersey and the United States District Court, Middle District of Florida.



William E. Andersen, Jr. | Management Team

Will Andersen (Pending Admission, NY Bar) provides assistance to clients in our New York Office. He has worked closely with The Andersen Firm's partners for over a decade and is a favorite among clients due to his ability to present concepts both clearly and concisely. He earned his J.D. from Hofstra University. He will focus his practice in Estate Planning, Estate Settlement & Probate, and Asset Protection.



Erin L. Turner | Management Team

Erin Turner joined The Andersen Firm in 2002 and serves as the Director of Client Services. In addition, Erin is a Florida Notary, Private Pilot and Licensed for Life, Health and Variable Annuity insurance in the state of Florida. As an approved instructor for the Florida Department of Financial Services, he frequently lectures on topics dealing with Estate Planning, Estate Settlement & Probate, Estate Litigation, and Asset Protection Planning. He earned his J.D. from Nova Southeastern University and his B.S. from Flagler College. Erin is a candidate for the July 2017 Florida Bar Exam.



Rhonda Miller | Management Team

As Vice President of Operations, Rhonda Miller spends much of her time developing and evaluating how we can improve our service and what kinds of systems or processes are the most effective, ensuring our staff and our attorneys can offer the highest quality service. Rhonda graduated Cum Laude from East Tennessee University with a degree in Business Administration and went on to manage the operations of a local bank for 10 years before joining The Andersen Firm.



Angela Hooper | Management Team

Angela Hooper is the firm's Director of Professional Alliances. As the primary contact for financial advisors and clients, she is the daily liaison of the organization. Providing strategic client direction and managing client expectations is an additional aspect of her position and she ensures clients receive what they need. Prior to joining the firm in 2006, her career spans nearly 20 years in the chemical industry in human resources and business development positions.. Angela received her degree from Alabama Southern College.

laugh for the day

Recently a teacher, a garbage collector, and a lawyer wound up together at the Pearly Gates. St. Peter informed them that in order to get into Heaven, they would each have to answer one question.

St. Peter addressed the teacher and asked, "What was the name of the ship that crashed into the iceberg? They just made a movie about it." The teacher answered quickly, "That would be the Titanic." St. Peter let him through the gate.

St. Peter turned to the garbage man and, figuring Heaven didn't REALLY need all the odors that this guy would bring with him, decided to make the question a little harder: "How many people died on the ship?" Fortunately for him, the trash man had just seen the movie and answered, "about 1,500."

"That's right! You may enter."

St. Peter then turned to the lawyer. "Name them."





Estate Planning: Cut-Rate Online Counsel

Web-based tools for estate planning are cheaper, but the real cost might come later.

By: Mike Mahoney, Freelance Writer

Web-based services like LegalZoom and RocketLawyer are now part of a \$5 billion industry that's growing at nearly 8 percent a year. How much of that growth derives from online wills is hard to say, but lawyers and financial planners see an increasing trend toward online estate planning, even if it doesn't threaten their business today.

"I believe a lot of people are at least going to the websites initially and taking a look at them, whether it's LegalZoom or any of the other sites that provide documents. But (the sites) also say they are not in the business of practicing law," says Thomas Bonasera, a partner in Dinsmore's Columbus law office.

David Swift, a partner at Vorys, Sater, Seymour and Pease, says recent surveys have found that 50 percent to 60 percent of Americans don't have wills or estate planning documents in place.

"In terms of trying to bridge that gap and providing some type of estate planning documents for people who feel they can't afford them, these services provide a benefit and have some kind of a role to play," he says. At first, online services just updated old-fashioned handwritten or self-typed wills. "

Attorneys haven't minded that because those kinds of documents generate a lot of legal work," Swift says. "The same thing is

ultimately happening with all the online products. They open up a lot of problems that can result in litigation."

Online legal services frequently miss the mark by emphasizing free or low-cost documents over the need for service and advice, says Roy Krall of Cavitch Davilo & Durkin, who chairs the Ohio State Bar Association's section on estate planning, trust and probate law.

"Do I need a will, do I need a trust, do I need a power of attorney, do I need beneficiary designations? All of these forms can be provided (online), but it would be like going to the store and buying a scalpel to perform surgery on yourself," Krall says.

"If there's anything to be saved at all in the creation of the document, often it does not effectively express an individual's true intent, or it's executed improperly or there's some other problem that leads to it being contested. It's going to cost many many, times (the original price) if it has to be litigated and it's contested. I've seen these things sort of blow up into litigation."

Continued: Estate Planning: Cut-Rate Legal Counsel

There are plenty of online players in the estate planning space, including RocketLawyer, LegalZoom, Nolo.com, USLegal, MegaDox, PublicLegal, LegalDocs, The EasyForms and Standard Legal. Googling along, consumers may find reviews and ratings on sites such as Top Ten Reviews and NextAdvisor.

There's a long list of potential mistakes associated with online estate planning, the American Bar Association reports. Online legal documents might not speak to the needs of minor children or those with special needs, or they might ignore the rights of same-sex couples. They might not take into account other complications, such as newborn family members, deaths, marriages and divorces.

"These documents really only make sense in simple types of will and trust situations, and therein lies the problem. What is a simple situation, and who decides whether a situation is simple?" asks Swift of Vorys. "In today's world, there are a lot of second marriages and blended families, and those types of situations almost always require something that is not in a standard or vanilla estate planning document."

Business owners will find it particularly hard to use any online form, he says. "You've got to worry about who's going to run the business afterward. You've got succession planning. The choice of executor and trustee requires a lot of thought there. When you have multiple children, who's going to get control of the business? Are you going to have children own it equally, and does that make sense?"

To financial planners and wealth managers, the online services can fall short of professional legal help, says Kathleen Lach, senior vice president of wealth management for UBS Financial Services' Columbus office. "Estate planning can include discussions on wealth transfers to heirs and charities, guardianship, powers of attorney, living wills, and trusts where you really need a professional involved. Knowing when and how to implement these strategies is where a professional touch may be helpful."

Krall says people without complex estates or high net worth might need a lawyer, too. "A big part of the estate plan is not even expressed in wills and trusts. Much of the estate planning is transmitted through 401(k)s and IRAs, which are done through beneficiary designations and not through wills and trusts."

To Joseph Chornyak Sr., managing partner of Chornyak & Associates financial planning consultants, the worst gamble in relying on online documents is their potential to create long-term risks for families that might not surface until the reading of the will.

"You may save money in the short run, but I do not think you will know if you have actually accomplished what you intended," he says. "That is a high cost to pay."

If you have clients who could use a Complimentary Estate Plan Review contact us at 866.230.2206

5 WAYS IN WHICH A TRUST IS BETTER THAN A WILL

Source: TrustAdvisor



Wills and Trusts are both estate planning documents used to pass assets on to beneficiaries at death. However, there are distinct advantages to using a Trust over a Will. Here are five ways in which a Trust is better than a Will to pass your estate to your beneficiaries, Dedham writes.

A Trust can be used to Avoid Probate – a Will cannot. Probate is the process of changing the title on assets when someone passes away. Assets that are owned in a deceased person’s individual name and for which there is no named beneficiary are no longer accessible once the owner of the asset has died.

A Trust can provide Creditor Protection for the Inheritance you Leave to Beneficiaries – a Will cannot. Many people worry that the inheritance they leave to their children will be lost to their children’s creditors such as a divorcing spouse, unpaid credit card bills, a bankruptcy, a business loss, or a lawsuit. Sadly, this is often the case when assets are distributed to beneficiaries via a Will.

A Trust can Protect Governmental Benefits for a Person with Disabilities – a Will cannot. If you have a child, grandchild or other beneficiary with disabilities, then a Trust is a must. If you leave assets to a person who receives needs-based governmental benefits via your Will, it will place your beneficiary in the difficult position of either losing those benefits, or transferring the inheritance into a Trust of which the state must be the beneficiary at the beneficiary’s death.

Trusts can Reduce Estate Taxes – a Traditional Will cannot. Many married couples have so-called “I-love-you” Wills, which leave all assets outright to the surviving spouse upon the first death. Using “I-love-you” Wills could mean money you think you are leaving to your beneficiaries will in fact be going to pay estate taxes payable upon the surviving spouse’s death.

A Trust can Administer Assets for Minor Beneficiaries without Court Intervention – a Will cannot. Leaving money directly to a minor creates an administrative nightmare because the law provides that a minor does not have the legal capacity to receive assets. The parent of the minor also does not have the ability to act as the child’s legal representative until the court says so. Creating a Trust to receive assets passing to a minor, or even to a young adult beneficiary, is the best way to ensure that the court is not involved in the process.



These are just five ways in which a Trust is superior to a Will. If you want to know more, please contact our office at 866.230.2206.

When NOT to Tell the Kids About Your Estate Plan



As your children grow older and become adults, it may be tempting to keep them informed about what is outlined in your estate planning documents. In the vast majority of situations disclosure can make a lot of sense. However, there are some families in the unique position that makes disclosure more or less not advisable.

Less disclosure may be recommended to you if it would cause any harm in the children's lives. For example, if changes to your estate plan would drive a wedge between one of your children and his or her spouse in an already unstable marriage, this could lead to unnecessary conflict and emotional challenges.

Sibling conflict can be another concern, particularly if one or more of your children is receiving what might be interpreted as an unequal share of things.

Emotional maturity and the mental capacity of your children should also be considered as well. Many children may simply not be able to handle this kind of information. Plenty of families may feel uncomfortable sharing direct financial information about the estate plan. This becomes particularly important as longevity is increasing and it is more and more possible that you could deplete your resources significantly before passing away as a result of a long term care event.

These complex estate planning issues highlight why finding the right attorney to put together your plan is so valuable. You and your clients have unique needs and concerns, and having an advocate from the start can go a long way.

If you or your clients could use a complimentary estate plan review, please contact our office at 866.230.2206.



ESTATE PLANNING UNDER A NEW ADMINISTRATION

*Source: BMO Wealth Management
By Richard J. Kollauf,*

If estate planning was on your mind in 2012, you may recall the uncertainty that surrounded the scheduled sunset of existing estate tax laws. Many investors rushed to lock in the \$5.12 million lifetime exclusion before it reverted back to \$1 million and to take advantage of a 35 percent transfer tax rate before it rose to 55 percent. By the end of the year, the fears proved unfounded as the existing estate tax laws were made permanent, setting the lifetime exclusion at \$5 million, indexed for inflation each year, and assuring the portability of the exclusion between spouses. The transfer tax rate was raised to 40 percent.

Today, we face similar uncertainties as the new administration and Congress have committed to repealing the estate tax in some form but haven't provided specific details. The estate tax represents just under \$20 billion, or less than 1 percent of the annual federal budget. The administration has yet to indicate how they intend to replace that void. In addition, many Americans may question the large tax benefit that would result for the wealthy.

What should you do in the face of this uncertainty? Rather than putting all planning on hold, you can be judicious in your planning, avoid paying any wealth transfer tax now and build plenty of flexibility into your plan for the future. Here are 10 tips for estate planning in today's uncertain political climate:

1. Plan for the unexpected

We all hope to live long, healthy lives, but the truth is that we have no idea what the future holds. It makes sense to keep your estate plan documents up to date just in case, particularly until there's a change in the existing laws. Follow the tips below to help ensure your documents are ready to go should life throw an unexpected curve ball:

- Review your will, trusts, and financial and medical powers of attorney. These documents should outline how you want your assets handled when you're no longer able to manage them yourself.
- Consider a living revocable trust if you don't have one already. It can help you minimize or possibly avoid the added costs, time delays and public nature of state probate.
- Update fiduciaries, including your executor/personal representative, trustee, guardians and agents. Be sure they're willing, competent and able to take on these responsibilities today and for some time in the future, so you don't have to change your documents often.
- Consider using the annual gift exclusion amounts of \$14,000 per year per donee (but make sure you aren't sacrificing your own financial well-being!). To date, house Republicans have proposed repealing the estate and generation skipping transfer (GST) tax, but not the gift tax. Given the administration's other priorities (health care, immigration, infrastructure), any change around the gift tax could be a long time coming.

2. Protect your assets

To help protect your assets, you'll want to draft documents for entities, such as trusts, in a way that not only benefits your heirs but also saves assets from future creditor attachment. If you're already using trusts but didn't consider asset protection, revisit those documents with your estate attorney.

3. Reassess credit shelter trusts

With a credit shelter trust (also known as a bypass or family trust), if your spouse passes away before you the assets may not receive a step-up in basis when you pass. However, if the trust distributes the bulk of the assets outright to you, they become part of your estate. When your heirs receive the assets, they get the step-up in basis, which can significantly reduce their income tax burden.

4. Build flexibility into your plan documents

Although President Trump has indicated he'd repeal the estate tax, he has also called for taxation of capital gains held until death and valued over \$10 million. On top of that, to prevent abuse, contributions of appreciated assets into a private charity established by your heirs wouldn't be allowed. With no additional guidance given, it's important to build flexibility into your estate plan so that it will be as effective as possible under current laws, as well as under any new estate tax laws. Consider these strategies:

- Use language that allows for qualified terminable interest property (QTIP) trust elections so that your assets can receive a step-up in basis if allowed. For example, the Clayton QTIP trust allows you to delay the decision on funding the QTIP or credit shelter trust until after your death or that of your spouse (whichever comes first).
- Name trust protectors in your documents. These are people to whom you give the authority to change distributions now or at your death to allow for the most tax-efficient transfers. They may also grant the surviving spouse power of appointment, enabling the spouse to make disposition decisions.
- Rather than using dollar amounts in your trust documents to value assets, include defined value clauses that allow transfers to be based on current laws at the time of death. This can help ensure that your distribution goals are met.

5. Continue plans for business succession

If you're a business owner interested in transferring a family business to your children, then you should continue those plans, short of paying any gift tax. Currently, the annual gift tax exclusion of \$14,000 per donee is separate from the lifetime estate and gift tax exemption of \$5.49 million. Like the estate tax, the top gift tax rate is 40 percent. Both the House of Representatives and President Trump have been silent on the fate of the gift tax. You can continue to use discounting strategies to gift partial business ownership interests to your children during your life. The gift amount is sheltered as part of the lifetime exclusion and is removed from your estate.



7. Keep accurate records

If the estate tax and GST tax are repealed, your assets likely won't receive a step-up in basis when your heirs inherit them; otherwise, the built-in gains would escape both a transfer tax and an income tax. This means your beneficiaries will likely be subject to a carry-over cost basis, and accurate recordkeeping will be important to help minimize future income taxes they pay when they sell the assets.

There has been some talk of replacing the current transfer tax structure with another regime, such as the one used in Canada. With this approach, a portion of any gains on transfers made during your lifetime or at your death are subject to tax. If this occurs, it will be important to document your cost basis and maintain an accurate valuation, as your beneficiaries will be required to compare your cost basis to the fair market value on the date of transfer, even if a sale is not part of the disposition.

8. Verify beneficiaries and title holders

To ensure that your assets are distributed according to your wishes, it's important that your beneficiaries are named and that the assets are titled correctly. For example, if you name a trust as beneficiary of a 401(k) plan and fail to include "stretch language," the beneficiaries will not be able to stretch payments over their lifetimes. In addition, failure to title assets such as real estate in your living revocable trust could lead to burdensome and costly probate.

9. For complex strategies, wait and see

You might be better served holding off on some of the more complex wealth transfer strategies until we have clarity on the future of the estate tax and basis step-up rules. For example, the grantor retained annuity trust (GRAT) or intentionally defective grantor trust (IDGT) sacrifice the step-up in basis at death in exchange for a current discounted transfer. However, these strategies do offer benefits that should be carefully weighed against holding off:

- They may offer tax savings as transfers during your life are subject to the gift tax, which is calculated based on the value received by your beneficiary. That's why it's considered tax exclusive. Transfers at death are subject to the estate tax, which is tax inclusive, meaning the funds your heirs use to pay the estate tax are themselves subject to tax.
- Future appreciation on assets you transfer during life escapes your estate.

10. Continue to plan in states that have their own estate taxes

Certain states have their own estate tax laws. It's important that you consider state-specific requirements, even as you await anticipated changes to federal estate tax laws. Failing to do so could prove disastrous.

Although we've not yet heard very specific proposals from the Trump administration, estate tax changes appear to be on the agenda. Keep in mind, even if the estate tax is repealed, the next time our president and Congress are united under a Democratic majority, it might all come back. That's why it's more important than ever to create a resilient estate plan that factors in what we know today and includes flexibility for the unknown.



If you have clients who may benefit from a complimentary estate plan review, please contact The Andersen Firm at 866.230.2206.

PRACTICE AREAS

ESTATE PLANNING

At The Andersen Firm we have planned for a vast array of estates ranging in size from a few hundred thousand dollars to a hundred million dollars and up, all the while realizing each specific case is different and requires specialized attention.

ESTATE SETTLEMENT & PROBATE

The process of settling an estate can be difficult and emotionally painful for the family and loved ones of the deceased. It is our goal at The Andersen Firm to ensure that the process be handled with compassion, expedience, professionalism, and expertise, while protecting the rights of all parties involved. If the circumstances surrounding a client's estate require probate, our attorneys offer extensive experience in handling the processes and legalities involved.

ASSET PROTECTION

For some, putting an Asset Protection Plan in place is advisable in order to attempt to remove the economic incentive to be sued and also to try and increase the ability to force an early settlement in the event a suit is filed.

LITIGATION

Our attorneys are skilled at handling cases involving estate and trust disputes, civil litigation, commercial litigation, and real estate litigation. Our attorneys draw on a thorough knowledge base of the specific procedures surrounding these issues. The Andersen Firm can efficiently take each case through to completion. Whether you are an individual or a business, defendant or plaintiff, our extensive experience affords our clients the benefit of our counsel.

REAL ESTATE

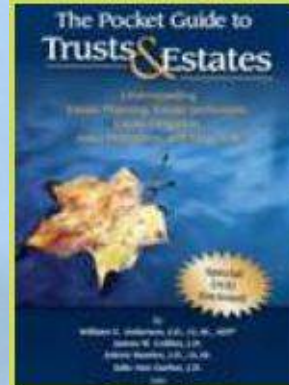
Our attorneys possess the expertise of being able to draft and review any contract relating to real estate, including but not limited to purchase and sale contracts and addenda, leases with options to purchase, stock purchase agreements, joint venture agreements, mergers and acquisitions, and business purchase agreements.

The Pocket Guide to Trusts and Estates

Bill Andersen and Joleen Searles with Erin Turner and Jerry Saresky have released

their collaborative book *The Pocket Guide to Trusts & Estates:*

Understanding Estate Planning, Estate Settlement, Estate Litigation and Asset Protection.



COMMENTS: If you have questions about The Andersen Firm's practice areas, need assistance with continuing education, client seminars, would like to request a copy of *The Pocket Guide*, or have a question or suggestion about our website, Angela Hooper is our Director of Professional Alliances. Angela welcomes your calls and may be reached at 954.527.8807 or by email at AHooper@TheAndersenFirm.com.



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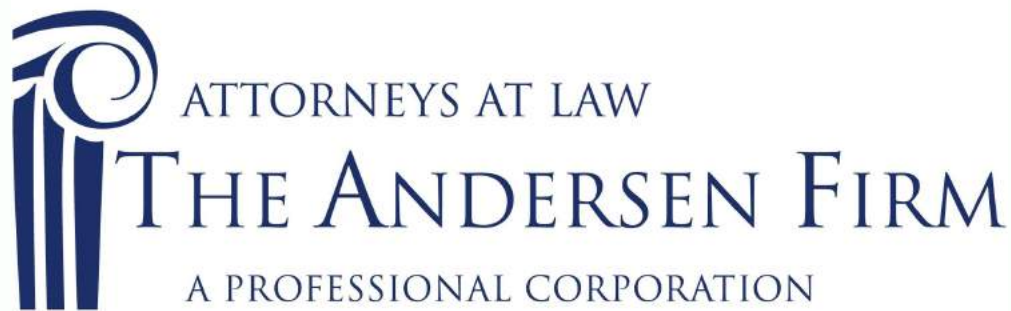
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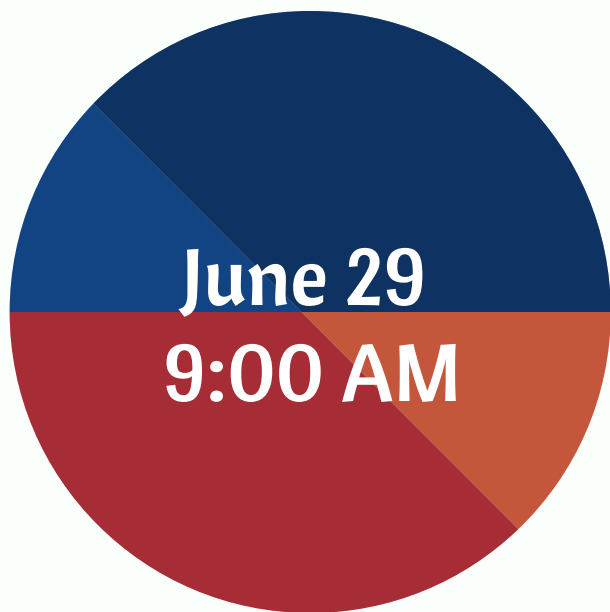
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