



KRAMER RADIN, LLP

LAW FIRM

ESTATE PLANNING MATTERS

WINTER/SPRING 2016

IRA CHARITABLE ROLLOVER EXTENDED AND MADE A PERMANENT LAW

Good news! The IRA Charitable Rollover option was signed into law in December, 2015 and is now permanent. This means that from now on, traditional (pre-tax) IRA holders 70 1/2 years or older may use part or all of their Required Minimum Distribution (RMD) to donate up to \$100,000 directly to any charity, fulfilling their RMD and at the same time avoiding taxation on it as income. This rule does not pertain to any other retirement vehicles such as 401(k) or 403 (b) accounts and each donation must be made by December 31 of any one year.

COMMUNITY INVOLVEMENT

We are pleased to inform you of the following:

Jerome Galli, a partner in our firm, is a member of the Legacy Giving Committee of Catholic Charities of Santa Clara County which is hosting a presentation by Father Gerald Coleman, P.S.S. entitled “Dying Well—What Does it Mean?” at St. Joseph’s of Cupertino. The program is scheduled for February 18th with registration beginning at 9:30 AM and closing remarks scheduled for noon. There is no charge for attending but an RSVP is required.

Linda C. Kramer will make a presentation to a group of family caregivers on March 31st from 5:45—7:00 PM. The caregivers are a part of the El Camino Hospital—Palo Alto Medical Foundation (PAMF) Meet and Move program. Meet and Move is a “walk and talk” program designed for family caregivers to share their triumphs and burdens while getting some much needed therapeutic exercise and socialization with people in similar situations.

Deborah G. Kramer Radin recently co-presented two seminars in January focused on estate and financial planning for families of children with special needs. The programs were presented

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The legal services of Kramer Radin, LLP include estate planning, trusts, probate and trust administration, related tax matters, litigation and dispute resolution, elder law, and conservatorships.

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COMMUNITY INVOLVEMENT (continued from page 1)

on behalf of the Jewish Community Foundation in Palo Alto and San Francisco. The emphasis was on the necessity of planning ahead for the continued care of loved ones with special needs.

If you would like information about any of these topics or if you would like to attend either of the up-coming programs, please contact:

Catholic Charities event registration: <http://www.catholiccharitiesscc.org/FrColeman>

Meet and Move program: <https://www.elcaminohospital.org/.../meet-and-move-caregivers-program>

PLANNING FOR A LOVED ONE WITH SPECIAL NEEDS

A Special Needs Trust is a trust established for the benefit of a person with special needs to supplement governmental benefits, including Medi-Cal and/or Supplemental Security Income, without risking the loss of those benefits. Many public benefits are “means-tested,” i.e., an individual must meet very low income and asset requirements to receive them. However, public benefits alone are usually insufficient to provide the beneficiary with the quality of life to which they have become accustomed. With a properly drafted Special Needs Trust, a beneficiary can utilize both trust assets and public benefits during his/her lifetime.



As a supplement to a Special Needs Trust, a new type of account may soon be available in California. On October 10, 2015, Governor Brown signed two bills allowing California to participate in a new program, the Achieving a Better Life Experience Act (“ABLE Act”). Using the existing Section 529 college savings plan as a model, the ABLE Act establishes a new kind of tax-preferenced account under IRC Section 529A to be used for “disability-related” expenses, including education, housing, transportation, employment support and training, assistive technology and personal support services, health and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, and funeral and burial expenses. As long as the 529A account balance is under \$100,000, the assets contained therein will not be counted as an “asset” when determining eligibility for means-tested benefits.

While 529A accounts may offer an additional financial tool for individuals with special needs, they have some significant limitations which properly drafted Special Needs Trusts do not. Unlike Special Needs Trusts, 529A accounts are only available for individuals whose qualifying “disability” began before the age of 26 and the beneficiary must actually qualify for disability under Social Security or a doctor’s certification. If the balance of a 529A account exceeds \$100,000, benefits may be lost or suspended for a period of time – a Special Needs Trust has no limitations on the amounts which it can contain. With a 529A account, if the beneficiary has been the recipient of Medi-Cal benefits while s/he was living, any sums remaining in the 529A account must be used to repay Medi-Cal before being distributed, if at all, to other beneficiaries, which is not the case with a properly drafted Special Needs Trust.

For a variety of reasons, Special Needs Trusts continue to be the optimal long-term planning tool for a person with Special Needs, but once available to the public, clients should discuss with their financial advisor the benefits and limitations of possibly supplementing their plans with a 529A account.

DO YOU HAVE A PERSONAL CARE PLAN?

Most people have never even heard the phrase “personal care plan” much less prepared one for themselves. It is a part of estate planning that is often overlooked because it deals with an often uncomfortable subject: your final days on Earth.

When you are gravely ill, you often have little control over the course of a disease. However, the recent passing of David Bowie brought to mind the control that a person can have over his or her final days. When Mr. Bowie became too ill to go out, he had made arrangements for people he knew and trusted to go out and bring back the things he wanted. He passed at home in the loving presence of his wife and children. A well written personal care plan provides a guide for choices such as when you no longer want to be taken out in public, who is welcome to visit during the end stages of your life and/or the music and films you would like to listen to and watch.

Each person’s personal care plan is, and must be, unique for him/herself. There is no right or wrong, better or worse. This is definitely not a “one size fits all” plan. It allows for a person to select foods, drinks, books, entertainment. This plan is to reflect the individual’s preferences and not those of a parent, spouse, or other person.

Our Advance Health Care Directive provides a way for you to let your agent and medical people know what measures you want taken or not taken in a variety of situations. In addition you may wish to designate who you want to be with you and, conversely, who you don’t want to be with you in your final days.

There is also a section to express your preferences or pre-made funeral plans. Religious or secular? Funeral or memorial service? Where? What readings or passages should be included? What music? Who should preside? Burial or cremation?

Our estate planning attorneys work with each client to ensure that in addition to all of the usual financial matters, non-financial considerations are included in your estate plan.



BIRTHDAYS ARE GOOD FOR YOU!

Statistics show that the people who have the most birthdays live the longest.

Larry Larenzoni

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