



KRAMER RADIN, LLP

LAW FIRM

ESTATE PLANNING MATTERS

SUMMER 2015

ESTATE TAX CHANGE

On July 30, 2015, the Senate passed H.R. 3236, the “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,” which is a three month extension for highway funding. Embedded in the bill were changes to the federal tax code to be effective immediately.

In addition to other tax changes, the bill may have substantial effects on federal estate tax reporting. The purpose of the change is to assure consistent reporting of the cost basis of assets on the federal estate tax return and the cost basis used by the beneficiaries of a decedent’s estate. This bill requires the executor/trustee of an estate to report to both the Secretary of the Treasury and each beneficiary of the decedent’s estate, the cost basis in property transferred to the beneficiary as a result of the decedent’s death.

However, recent guidance regarding the requirements for reporting has delayed the effective date to February 29, 2016, in order to give Treasury and IRS time to create and disseminate the forms and detailed instructions. We will have further updates later as to how this change will impact filing a federal estate tax return.

RISE IN PREVENTABLE COURT PROCEEDINGS

We are seeing a marked increase in the number of preventable court proceedings to modify trusts when we administer the estate of the first spouse to die. Court proceedings are necessary primarily to take advantage of changes in estate tax law because the married couple’s trust was not updated prior to the death of the first spouse to die. Court proceedings are costly both in terms of the emotional energy spent as well as the additional time required to prepare for the court hearings.

We would rather amend the married couple trusts before the court needs to be involved following the death of one spouse. If you have not reviewed your trust in more than three years, we strongly recommend that you make an appointment to do so now.

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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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WHY DO I NEED CURRENT, VALID PHOTO IDENTIFICATION?

It is necessary to have a current, valid photo identification for the Notary Public when you sign estate planning documents. There are many other situations that require current, valid photo identification including: opening a bank account, signing real estate loan documents, purchasing an automobile, claiming unclaimed property from the California State Controller's office, or flying or sailing to your favorite vacation destination.

In order for photo identification to be current it must not be expired or it must have been issued within the past five years, and to be valid it must (1) contain a photograph of the individual and a physical description of the person, (2) be issued by a government agency or department, 3) have the signature of the person and (4) have an identifying number.

The most frequently requested forms of photo identification are a current California driver license or United States Passport. If you do not have either of those, the Department of Motor Vehicles will issue a California identification card that is valid for six years (10 years if you are over age 62). Other acceptable forms of photo identification include identification cards issued by another state, the United States military, or an employee identification card issued by an agency or office of the State of California or of a California city and/or county.

Be sure your photo identification is **current** and **valid** especially if you are in the process of creating or amending your estate plan. (Check it now so you are not unpleasantly surprised when you need it.)

WHEN IS IT TIME TO STOP DRIVING?

Most people can drive safely well into later life and, statistically, the elderly are some of the safest drivers on the road. However, diminishing eyesight, reflexes or memory affect being safe behind the wheel. The question is when should one stop driving and who should determine it?

The answer varies but indications of probable problems include: unexplained dings and dents on the vehicle; scuffed tires or wheel covers; traffic accidents or moving violations; mental confusion in finding one's way around town; slowing of reaction times. These may be caused by certain medications or medical conditions but are all signs that driving has become unsafe.

While our clients who execute a new or revised estate plan are of sound mind at that time, we suggest that they also complete and sign an agreement to stop driving when a person, designated by them, determines that it is no longer safe for them to continue to drive. We also ask our clients to share this information with their family members and close friends.

If this is of interest to you, please call us and make an appointment with one of our estate planning attorneys.



“Deep summer is when laziness finds respectability.”

– Sam Keen

DIGITAL ASSETS IN ESTATE PLANNING

Since the explosion of Internet applications, a person's digital assets have become more and more important. Digital assets can be separated into four categories; personal (photos, videos, emails, e-books, gaming, etc.), social (Facebook, LinkedIn, Twitter, etc.), financial (banks, brokerage PayPal, ApplePay, etc.) and business (domain names, contact lists, intellectual property, password protected files, company social media sites, etc.).

Each time you open a new Internet service, there is a Service Agreement containing terms and conditions to which you must agree and each has unique terms and conditions. Some services allow the user to authorize a successor to access accounts if necessary and some do not. For example, Google has an "Inactive Account Manager" for users to choose who can access their account following death but if that is not done, generally a court order will be necessary. Facebook's terms of service provide for a user to name an executor either to set up an online memorial or to permanently remove the contents. Yahoo!, Outlook/Hotmail (Microsoft services) and Twitter delete inactive accounts.

Legislation concerning the handling of digital assets has been enacted piecemeal and is not consistent. One act makes it a crime to intentionally access a computer without authorization or exceeding the authorized access but another act states that access by a user authorized by an estate planning document (Will, Power of Attorney, Trust, etc.) is permitted. Needless to say the legislatures and Courts have their work cut out for them to reconcile the differences.

In the meanwhile, it is essential that you (1) keep good records (stored in a safe place known by those you trust) of your cyber accounts including user name, password and answers to your security questions and (2) update your estate planning documents to include authorization for your Agent under your Power of Attorney, Successor Trustee of your Revocable Trust or Executor of your Will to access your digital assets in order to change or close the accounts as necessary or according to your wishes.

IT IS OUR PLEASURE TO INTRODUCE ...

It is our pleasure to introduce the two newest members of our attorney staff. In January, Tricia L. Manning joined us and Lisa M. Kajani joined us in July.

Tricia received her undergraduate degree from Cal Poly San Luis Obispo and law degree from University of the Pacific McGeorge SOL. She has been a member of the California State Bar since 2009. Her practice areas include estate planning, trust management and probate proceedings.

Lisa received her Bachelor of Arts degree from UCLA and law degree from University of San Francisco SOL. She has been a member of the California State Bar since 1992. Her practice areas have included estate planning, with an emphasis on special needs planning, conservatorships and probate proceedings.

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