

KRAMER RADIN, LLP

LAW FIRM

ESTATE PLANNING MATTERS

FALL 2017

2017 Estate Tax Portability Update

As we have discussed numerous times in the newsletter over the last few years, the American Taxpayer Relief Act of 2012, made permanent a unique estate tax planning opportunity called “portability” between spouses. Portability refers to the transfer of the decedent’s unused applicable exclusion amount, which is presently \$5,490,000 for persons dying in 2017, to the surviving spouse. This unused applicable exclusion amount of the decedent can be added to the surviving spouse’s own applicable exclusion amount in effect at the time of his or her death. In order to utilize the deceased spouse’s unused applicable exclusion, an election must be made on a timely filed estate tax return for the decedent. Estate tax returns are due nine months after a person’s death, unless an application for a six month extension of time to file was submitted.

Over the last several years, the IRS has received numerous requests for relief due to missed deadlines for portability elections. In response to the volume of those requests, the IRS recently passed a Revenue Procedure which allows executors for estates of persons who died between January 1, 2011 and January 2, 2016 the opportunity to retroactively file an estate tax return and make a portability election. The deadline for filing those “late” returns is January 2, 2018.

If you either missed the original filing deadline for your spouse’s return, or you chose not to file but feel you would now benefit from a portability election due to changed circumstances, time is of the essence. Please feel free to contact us for an appointment to determine if this new ruling would benefit you.

In any event, we recommend that you meet with your estate planning attorney at least every 3-5 years for a review to be certain your estate planning documents still reflect your wishes and, because our laws continue to change on a frequent basis, to reflect up-to-date law.



ATTORNEYS AT LAW

PARTNERS

Linda C. Kramer*
Deborah G. Kramer Radin*

ASSOCIATES

Betsy Marder Friedman
Tricia L. Manning
Lisa M. Kajani
Nina C. Decker

OF COUNSEL

Frank E. Clohan

*Certified Specialist, Estate Planning, Trust and Probate Law, State Bar of California Board of Legal Specializations



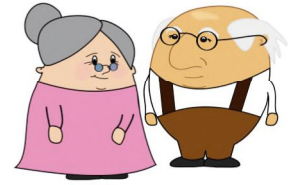
CONTACT INFORMATION

280 Second Street, Suite 100
Los Altos, CA 94022
Phone: 650.941.8600 or 408.377.7845
Fax: 650.949.5648
Email: inquiries@kramerradin.com
www.kramerradin.com

Elder Abuse Prevention

On July 19, 2017, Linda C. Kramer and Deborah Kramer Radin were legal experts participating on the radio program “Your Legal Rights” (see link below) to discuss prevention of elder abuse. Unfortunately, elder abuse is prevalent world wide including here in Northern California. Many times the abuser is a relative or “trusted” friend who is only interested in his or her own selfish enhancement. They see an “easy target”.

Linda and Deborah emphasized the fact that elder abuse can be physical, financial, and/or psychological. Part of the key to prevention is to know what elder abuse includes. “**Elder**” in the State of California includes any dependent person between the ages of 18 and 64 who has physical or mental limitations, rendering that person unable to protect his or her rights, as well as any person age 65 or more. “**Abuse**” of an elder or dependent adult under California Penal Code 15610.07 means either of the following: “(a) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or main or mental suffering. (b) The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. ...” Elder abuse can be regarded as either a civil or criminal offense.



Social isolation and physical dependence on care from others are often indicators of potential abuse. Embarrassment for having fallen for a scam or shady scheme is frequently the reason the victim doesn’t report the crime to the police or anyone else.

Deborah and Linda also stated that identifying possible elder abuse is the responsibility of the entire community— family members, friends, neighbors, bankers, doctors, and clergy. In fact, the latter three—bankers, doctors, and clergy—are required by law to report suspected abuse. Concerned family members, friends and neighbors are encouraged to contact the county Adult Protective Services (“APS”) if abuse is suspected. APS personnel will then make a house-call to verify if there is reasonable suspicion of abuse. The person(s) notifying APS will remain anonymous so there should be no fear of reprisal.

The program can be heard in its entirety at <http://kalw.org/post/estate-planning-prevention-elder-financial-abuse>

Frank E. Clohan Becomes “Of Counsel”

We are proud to announce that attorney Frank E. Clohan has become “Of Counsel” with the Kramer Radin, LLP law firm.

Like our firm, Frank has provided quality legal services to the Los Altos community for many years. During the 50 years that Frank has practiced law in California, his practice has evolved and has recently become more focused on estate planning and post-death administrations. A portion of his estate planning practice includes real estate purchases, sales, exchanges, long term leasing, and development. The long term leasing and development issues often go hand-in-hand for clients who own low tax basis commercial property, which currently is not producing optimum value. By structuring a long term ground lease to a qualified developer, it can become a win-win transaction. He has created a substantial number of limited liability companies (LLCs), often as an estate and/or tax planning vehicle.

Frank has created tax exempt entities and obtained tax exemption status from the IRS and State of California and represented some clients in gift and estate tax valuation disputes in the United States Tax Court. He has also represented several private corporations in acquisition transactions, particularly when tax issues are a significant concern.

Every year for the past 25 years he has obtained the highest rating in both legal ability and ethical standards from Martindale-Hubbell.

Recently, Frank said, “Although we will each maintain our current practices, our of counsel relationship will permit us to use our shared background, experience and knowledge to enhance the quality of service and expand the scope of quality services we can each provide to our clients. I consider it a real privilege to be able to associate with the Kramer Radin law firm.”

We consider it a privilege to have Frank of counsel with our firm.



Introducing Nina C. Decker

We are pleased to announce that attorney Nina C. Decker joined our firm in May this year, following several years of practice in estate planning, civil litigation and bankruptcy. She is now focusing on estate planning including trusts, wills, powers of attorney, trust management as well as the formalities for establishing and managing Limited Liability Companies and Corporations.

In addition to her membership in the State Bar of California, her professional affiliations include membership in the Silicon Valley Bar Association of which she is a past-member of the Board of Trustees, the Santa Clara County Bar Association and JW House Young Professionals Advisory Committee.

Nina obtained her law degree from Santa Clara University School of Law where she was Editor in Chief of the Santa Clara Journal of International Law. There she received the Witkin award for academic excellence and the Cali award in Legal Writing and Research and International Human Rights Theory and Practice for being the highest scoring student in a law school course.

Happy Holidays from All of Us to You



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CONTACT INFORMATION

280 Second Street, Suite 100
Los Altos, CA 94022
Phone: 650.941.8600 or
408.377.7845
Fax: 650.949.5648
Email: inquiries@kramerradin.com
www.kramerradin.com

KRAMER RADIN, LLP

280 Second Street, Suite 100
Los Altos, California 94022-3642

Phone: 650-941-8600
Fax: 650-949-5648
E-mail: inquiries@kramerradin.com
www.kramerradin.com

Newsletter
Fall 2017

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ABOUT US

KRAMER RADIN, LLP is a firm of professionals dedicated to the practice of law in estate planning, probate and trust administration, conservatorships and all aspects of trust and estate litigation. Our team of experienced legal professionals encourages our clients to plan and administer their estates wisely to provide for their loved ones, protect their assets from unneeded legal and tax expense and carry out smooth and well-thought-out estate continuity. Our attorneys deal with related issues including gifting, charitable giving, prevention of elder abuse and dispute resolution.

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