

# Season's Greetings

from

The Law Office of John T. Anderson

**It's that time of year again. It's time to locate your estate planning documents, dust them off, and READ them!** Have circumstances (people or assets) changed in a manner that could affect your estate plan?

**DISCLAIMER:** *The information contained in this letter is intended to inform the reader, generally, of issues in estate planning and probate law. It is not to be the final resource and should not be considered legal advice. The information is not intended to be all-inclusive. To obtain detailed information or advice regarding a specific legal situation, you should contact a qualified attorney in your state.*

## **CONSIDER THE FOLLOWING:**

1. Have there been any marriages, divorces, births, or deaths in your family? Have you remarried? These events trigger unintended consequences if not addressed in your estate plan.
2. Are those whom you have named as beneficiaries still the individuals you want to have inherit from you?
3. Is the person(s) you have named to be in charge still the person(s) you want to be in charge?
4. Are those who are named to make decisions for you in your Advance Healthcare Directive and/or your Financial Power of Attorney still the individuals you wish to make medical decisions and handle financial matters for you? Do you have an Advance Healthcare Directive that has provisions for the Health Insurance Portability and Accountability Act ("HIPAA")? **Every person 18 years of age or older should have an Advance Healthcare Directive that contains provisions for HIPAA.** Do your adult children, adult grandchildren, and adult great-grandchildren have Advance Healthcare Directives that contain provisions for HIPAA?
5. If you have a will and not a trust, has the gross value of your estate increased to close to or more than \$150,000? Or, has the gross value of your real property, regardless of your equity in the property, increased to over \$50,000? If so, a living trust may be appropriate for you so that your loved ones can avoid the time and expense of the probate process.
6. Have you bought or sold any property? If you acquired property, did you properly place that property into your trust? If you re-financed your home or other property, is the title to that property back in your trust?
7. If you have a living trust and have your home or other real property titled in your name as trustee of

your trust, have you included yourself, as trustee of your trust, as a "secondary insured" on your property insurance policy?

8. If you and your spouse have a trust that is set up to "split" on the death of either of you (e.g., an "A/B," or an "A/B/C" trust), do you remember why you decided to set it up that way? Do you remember that with a trust that splits upon the death of the first spouse, that upon the death of that spouse half of the trust becomes irrevocable; needs a separate tax identification number; and will have its own tax returns due each year? Is this still what meets your needs or will a more simple "standard trust" be a better fit now?
9. If your trust does not "split" on the death of either of you, has the value of your estate increased to the point that a trust that splits might be beneficial to you for estate tax purposes?

## **KEY ESTATE PLANNING TAX LAW UPDATES:**

1. At the end of 2012, Congress and the President avoided the "fiscal cliff." As part of their agreement, the estate tax exclusion amount remained at \$5.25 million. Beginning January 1, 2013, any amount exceeding \$5.25 million is taxed at 40 percent. Beginning January 1, 2014, the exclusion amount is scheduled to increase from \$5.25 million to \$5.34 million.

**What does this mean for you?** If you are married and the gross value of your estate is close to or exceeds \$5.34 million, a variation of an A/B or an A/B/C trust may still be appropriate for you, or there may be a better way to plan. With an A/B or an A/B/C trust, it is possible for a married couple to pass up to twice the estate tax exemption amount (\$10.68 million in 2014) without paying any estate tax! *But this can only be accomplished with a proper estate plan.*

2. **PORTABILITY.** Portability was a concept introduced in 2010 and has been made “permanent” as part of the agreement Congress and the President reached at the end of 2012. Portability allows the surviving spouse to retain a deceased spouse’s unused exemption, but **ONLY IF** portability is elected on a timely filed estate tax return upon the death of the first spouse.

3. **GIFTING.** Is gifting something you are considering? If so, there are two concepts to keep in mind - the “annual gift tax exclusion amount” and the “lifetime gift tax exclusion amount.”

In 2014, the **annual gift tax exclusion amount** will remain at \$14,000. This means that a person (the “donor”) can give another person up to \$14,000 in 2013 and 2014 without it counting toward the donor’s lifetime gift tax exclusion amount. So there is no tax or reporting on this amount.

On January 1, 2014 the **lifetime gift tax exclusion amount** is scheduled to increase from \$5.25 million to \$5.34 million. The IRS expects you to keep track of the gifts you make throughout your lifetime that are above the annual gift tax exclusion amount.

For example, if you give another person \$100,000, \$86,000 of that amount (\$100,000-\$14,000) will count toward your lifetime gift tax exclusion amount. When you die, if the total amount you have given beyond the annual gift tax exclusion amount exceeds the lifetime gift tax exclusion amount, that amount will be taxed at 40 percent.

4. Keep in mind that the lifetime gift tax exclusion amount and the estate tax exclusion amount are **“unified.”** This means that if some of the lifetime gift tax exclusion amount is used during a person’s lifetime, the amount that is excluded from estate tax upon that person’s death is reduced accordingly.

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If the complexities of the estate tax, portability, or gifting confuse you or if in reading your estate planning documents you are confused or have questions, please call us. That is what we are here for. In many situations, we can answer your general questions over the phone and often without charge. If you have changes, or would like to discuss your estate plan or gifting at our office, we would be happy to schedule an appointment for you.

Be sure to visit our website – [www.trustlaw.ws](http://www.trustlaw.ws). There you will find information on estate planning, probate, trust administration, guardianships, conservatorships, and both pre- and postnuptial agreements. We have also posted videos to our website. Although not a substitute for legal advice, our short videos are a great resource for someone who is considering an estate plan and does not know where to start or for someone who has lost a loved one and does not know what legal steps might now need to be taken.

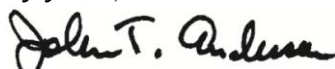
If you have recently lost a loved one, please accept our sincere condolences on your loss. We are here to assist you with the legal steps that should now be taken.


We are happy to inform you that our office has expanded. At the end of 2012 we welcomed Daphne Carroll-Pollack to our staff. Daphne is our new legal assistant and comes to our office with a background handling trust administration, guardianship, conservatorship, and estate planning matters. Also, Mr. Anderson’s son, John Jr., recently graduated *cum laude* from Western State University College of Law and has joined our staff as a law clerk.

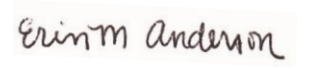
Lastly, we are happy to announce that Mr. Anderson was recognized this year by the State Bar of California as having been certified as a Specialist in Estate Planning, Trust, and Probate law by the State Bar of California Board of Legal Specialization for 20 years. This is a huge accomplishment for Mr. Anderson and further distinguishes his position in this field. It has been estimated that only 800 of the over 200,000 lawyers in California are Certified Specialist in Estate Planning, Trust, and Probate law. Even fewer have held this distinction for 20 years!

From our family to yours, we wish you a joyful holiday season and a wonderful 2014! Call us with any changes, questions, or concerns you have. **We look forward to again serving you and your loved ones!**

Very truly yours,

  
John T. Anderson, Esq.

  
Lisa R. Norman, Esq.

  
Erin M. Anderson, Esq.