

# **HAPPY NEW YEAR!**

From The Law Office of John T. Anderson

It's that time once again when the holidays and the new year remind us of the importance of friends and family...  
and **THAT YOU NEED TO REVIEW 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.

*"Everyone gets organized at some point, they just might not be around for it." -Sue DeRoos*

This year we suggest that your New Year's resolution include "**GETTING ORGANIZED.**" All too often we encounter situations where someone has become incapacitated or died and the person either did not have an estate plan, their estate plan was out of date, or their estate plan could not be found. This often triggers unintended consequences, headache, and heartache for those left to pick up the mess. **DON'T LEAVE A MESS!** Find your estate plan, dust it off, and **READ IT!**

**WE CANNOT EMPHASIZE THIS ENOUGH: REVIEW YOUR ESTATE PLAN AT LEAST ONCE A YEAR. CALL US IF YOU HAVE QUESTIONS. THAT IS WHAT WE ARE HERE FOR.**

Your estate plan is not a "one-and-done" set of documents. It may need to be modified as laws change or as your individual or family circumstances change.

## **CONSIDER THE FOLLOWING:**

- 1) Do you know where your estate planning documents are? Your Will and Trust? All Codicils and Amendments? Your Healthcare Power of Attorney/Advance Directive? Your Statutory Power of Attorney?
- 2) Whom have you named in these documents to make decisions for you if you are not able?
- 3) Does the person(s) you have named to make medical decisions for you in your Healthcare Power of Attorney/Advance Directive have a copy of this document? Is the person you named still the right person for this?
- 4) Does your Healthcare Power of Attorney/Advance Healthcare Directive have 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 parents, adult children, and adult grandchildren have Advance Healthcare Directives that contain provisions for HIPAA?
- 5) Who are your successor trustees and executors? Are your successor trustees and executors competent to manage your affairs if you become incapacitated or pass away? **Are they still living?** We often find that those named as successor trustees and executors have no experience with finance, banking, or even writing checks! These may not be the individuals you want handling your affairs when you become incapacitated or pass away.
- 6) Have you properly titled the correct accounts in your trust's name with you as trustee?
- 7) Do you have account information for your checking, saving, investment, retirement, life insurance, etc. organized in such a way that if you become incapacitated or pass away that those you have named to handle matters for you will know of their existence **and be able to find such documents?**
- 8) Who are your beneficiaries? Are they up to date?
- 9) 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.**

- 10) 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.
- 11) 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 of that property back in your trust?
- 12) If you have a living trust and have your home or other real property titled in your trust with you as trustee, have you included yourself, **as trustee of your trust**, as a “secondary insured” on your property insurance policy?
- 13) 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, 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” or “disclaimer trust” be a better fit now that the exemption from estate tax has increased?**
- 14) 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, or has the option to do so, might be beneficial to you for estate tax purposes?

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

1. Beginning January 1, 2015, the exclusion amount from federal estate tax is scheduled to increase from \$5.34 million to **\$5.43 million**. After January 1, 2015, amounts over \$5.43 million are taxed at **40 percent**.

**What does this mean for you?** If you are married and the gross value of your estate is close to or exceeds \$5.43 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 (\$10.86 million in 2015) 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.

### **PORTABILITY (continued)**

**What does this mean for you?** Upon the death of a spouse or domestic partner, it is critical that you consult with your CPA to elect portability and preserve your spouse’s or domestic partner’s unused exemption amount.

3. **GIFTING.** The annual gift tax exclusion amount will remain at \$14,000 per person, per year in 2015. However, the lifetime gift tax exclusion amount will increase from \$5.34 million to \$5.43 million.

**What does this mean for you?** The IRS expects you to keep track of the gifts you make throughout your lifetime that are above the annual gift tax exclusion amount. 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.

Lastly, we are very happy to inform you that John T. Anderson, Jr. **PASSED** the California Bar Exam and has joined our office as an attorney. Mr. Anderson is very proud to have three of his children working with him as attorneys, continuing the family legacy for generations to come.

We hope you had a wonderful holiday season, and we wish you a wonderful 2015. Please call us with changes, questions, or concerns.

***We look forward to serving you and your loved ones!***

Very truly yours,

John T. Anderson

Lisa R. Norman

Erin M. Anderson

John T. Anderson, Jr.