



# PHILLIPS ESTATE LAW

trusted guidance

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## Our Services

Estate planning services are designed to give you peace of mind, create life giving opportunities, and protect and defend your assets. At Phillips Estate Law, we provide:

### Estate Planning

A typical estate plan will usually include the following documents:

**Will.** The Will is the basic building block of any estate plan and serves several purposes. Primarily, a Will directs the distribution of your assets after your death. However, a Will can name guardians for minor children, minimize estate tax liability, and protect young or vulnerable beneficiaries through the use of trusts.

**Financial Durable Power of Attorney.** The Financial Durable Power of Attorney allows you to appoint an individual (the "attorney-in-fact") to make decisions and take actions regarding your property and finances in the event you are incapacitated. The Financial Durable Power of Attorney is designed to preclude the need for a guardianship proceeding in the event of incapacity. The Power of Attorney becomes effective immediately, or upon your later disability or incompetence, as you determine appropriate.

**Health Care Durable Power of Attorney.** The Personal and Health Care Durable Power of Attorney allows you to appoint an individual to make decisions and take actions regarding your personal care and health care in the event you are incapacitated.

**Health Care Directive.** The Health Care Directive states your wishes regarding end of life care. A Health Care Directive puts control of end of life medical decisions in your hands, and relieves your loved ones of the burden of making those choices. It is designed to provide for the termination of artificial life support systems if you are diagnosed to be in a "terminal condition" or in a "permanent unconscious condition."

**Revocable Living Trust.** Sometimes it is appropriate to use a Revocable Living Trust, rather than a Will, as the primary vehicle for distributing assets at death. A Revocable Living Trust is a trust agreement created during your lifetime into which you transfer all of your assets. During your lifetime, you are the beneficiary of the trust and continue to have the use and benefit of all of the trust assets. Upon your death, the trust assets are distributed according

to the provisions of the trust, rather than under the provisions of your Will. Thus, probate is avoided if all of your assets are owned by the trust on the date of your death. Living Trusts are not generally recommended due to Washington's streamlined probate process; however, there are circumstances that warrant the use of a Living Trust to distribute and manage assets. For a full definition of a Revocable Living Trust, please see the Definitions section.

**Life insurance and retirement plan beneficiary designations.** We provide sample beneficiary designations that coordinate the distribution of life insurance and retirement plans (which pass outside of the probate process) with your overall estate plan. This is a crucial element of an estate plan that is often overlooked. For instance, if you have created a trust under your Will for your young children, this trust must be named as a beneficiary of your life insurance and retirement plans; otherwise, those assets will likely pass directly to your children by the age of 18.

**Advice regarding titling of assets.** We provide advice regarding the titling of your assets so that the assets pass at death according to your estate plan.

**Fees.** For many of our estate planning engagements, we charge on a flat fee basis. The good news is that although we provide advice and services of equivalent quality and sophistication to much larger firms, our fees are generally substantially lower. The reason for our lower fee structure is due to reduced overhead and our commitment to providing quality estate planning services for a reasonable fee.

For more complex engagements, revisions to existing estate plans, and trust and estate administration, we usually charge on an hourly basis. Please contact us for our current rates.

## **Trust and Estate Administration**

**Estate administration** (or "probate") is a process where the Will of a decedent is proved to the court to be valid, an Executor (also called a Personal Representative) is appointed to administer the estate, taxes and debts of the decedent are paid, and the remaining assets of the decedent are distributed pursuant to the terms of the Will. Probate generally has the following components:

- Obtain a court order that appoints the Executor and gives them authority to pay the decedent's outstanding debts and taxes and transfer the decedent's remaining assets.
- Provide notice to all creditors of the decedent through publication of a Notice to Creditors, to determine the extent of the decedent's liabilities.

- Identify all assets of the decedent and draft an Inventory of those assets and their date-of-death values.
- File all tax returns, including income tax and estate tax, and pay all tax liabilities.
- Distribute the remaining assets of the decedent (after taxes and debts are paid) pursuant to the terms of the Will.
- Formally close the estate through the simple filing of a document called a Declaration of Completion.

The complexity and issues that arise in estate administration widely vary. The cost of completing a probate varies dramatically depending on the value and complexity of the estate, and our fees are charged on an hourly basis.

**Trust administration** is much like estate administration, except that it essentially removes formal court interaction and some of the paperwork associated with a probate. The Trustee of the trust is the person who takes the lead, notifies creditors, pays debts and taxes, and distributes the remaining assets pursuant to the terms of the trust.

Our firm advises, assists, and supports the fiduciaries (Personal Representative or Trustee) in the administration process.

### **Estate Tax Reduction Strategies**

In addition to the basic estate planning process and documents listed above, we also have expertise in a variety of tools and strategies that help our clients minimize exposure to estate taxes. These strategies include:

**Qualified Personal Residence Trusts** (or “QPRT”) is a strategy that is used when the client wants to lower their estate tax exposure by gifting their personal residence away on a discounted basis. A QPRT allows a client to retain the right to reside in the home for a period of years, but after such period is over, they retain no ownership or interest in the residence and it is not be included in their estate at their death for estate tax purposes. The cost of implementing this strategy is the amount of gift tax exemption to cover the value of the residence at the time of the gift, less the present value of retaining the right to live in the home for the chosen period of years.

**Grantor Retained Annuity Trusts** (or “GRAT”) is another strategy that is used when a client owns assets that are likely to appreciate in value and the client wants to capture those gains outside of his estate. A trust is created and funded with those assets that are likely to appreciate. The client (called the grantor) receives an annuity from the trust every year for a set period of years. At the end of the chosen period years, the trust distributes the

remaining assets as set forth in the trust terms. The cost of implementing this strategy is the amount of gift tax credit to cover the value of the gift plus an appreciation over life of the trust equal to the IRC Section 7520 rate, less the amount of the retained annuity.

**Irrevocable Life Insurance Trusts** (or “ILIT”) is a strategy that can accomplish a couple different of objectives. It serves as a way for a client to utilize his annual gift tax exclusion (currently \$13,000 per year, per donee) and the ILIT can provide liquidity upon the client’s death through a life insurance death benefit that is outside of the client’s estate for estate tax purposes. The strategy begins by a created trust purchasing an insurance policy on the life of the client. The client utilizes his annual gift tax exclusion in order to make gifts to the trust so that the Trustee can make the premium payments, thereby decreasing his estate and funding a life insurance policy outside of his estate.

**Charitable Remainder Trust** (“CRUT”) is a strategy used when a client would like to see a portion of his net-worth pass to a charity, yet wants to retain some financial benefit of the gifted assets. The basic structure of a charitable remainder trust is to set aside assets in a trust that pays the client an income stream for a period of years or for the client’s lifetime. The assets remaining after the period of years is concluded are distributed to a charity or charities of the client’s choosing. The benefit of a CRUT is that it provides the donor a current income tax deduction while she continues to enjoy an income stream from the gifted assets. Another benefit of a CRUT is that highly appreciated assets can be gifted to the CRUT, the assets can later be sold by the Trustee of the CRUT without incurring capital gain tax, and the entire sales proceeds can be available to pay income to the donor.

## Other Services

**Business entity formation:** It may be advantageous to a client to form a limited liability company, an S corporation, or a limited partnership for a variety of reasons. We handle all formation and initial filings of the business entity and help the client get off on the right foot by setting the entity in motion and advising the client at the outset how keep the entity compliant with local and federal authorities.

**Guardianships:** If a person does not have proper durable powers of attorney in place and becomes unable to care for themselves and are in a position of vulnerability, a guardianship may be appropriate. A guardianship proceeding is the court process of determining that a person is vulnerable, personally or financially, and appointing a person or entity as a “guardian” to care for them or their assets. The guardian performs their duties subject to ongoing court supervision. Our office handles all of the drafting and filing of the appropriate pleadings in order to complete the process in an efficient manner.

**International Estate Planning:** Western Washington, with its high concentration of technology companies, has developed an international population, with people coming from all over the world to work for the Fortune 100 companies that are based here. Our

firm is growing in the necessary expertise to meet to the unique needs of our clients who are not U.S. citizens, or who have assets in other countries.

**Real estate planning and transfer:** Real estate has a central role in many of our client's asset portfolios, and the strategic transfer of real estate can create unique opportunities. We are proficient in assisting our clients with the planning and documentation necessary for any form of sale, gift, or other transfer of real estate.

Although the above services are representative of our legal experience, it is important to know that we can reach beyond our own expertise to help you form a team of professionals to serve you. For example, our network includes wealth and financial planning, accounting, insurance, professional estate and trust administration, and other legal services.