



## ESTATE SUCCESSION

When a loved one loses capacity or passes away it is a great comfort to know one's family and affairs are in the hands of a trusted counselor at the Bay Laurel Law Group, LLP. In that sad event, the Successor Trustee or Executor, usually a family member, engages us to assist with the succession of the estate or trust. A probate and trust administration often lasts a year or longer under the best of circumstances. Regardless of the value or the complexities of the estate, a clear process is required to accomplish an understandable, timely, and orderly progression.

At Bay Laurel Law Group, we facilitate probate and trust administration matters to ensure that the legal, tax and financial requirements are properly attended in a timely manner. We also assist families and their advisors to:

- Create and update estate plans to achieve security, minimize taxes and promote family harmony;
- Plan, manage and exit from closely-held businesses;
- Plan for long-term care and public benefits eligibility for long-term care, and protect vulnerable loved ones through conservatorship and alternative means; and
- Mediate or litigate disputes among family members in business or estate matters.

## OVERVIEW OF OUR ESTATE SUCCESSION PROCESS

Our process begins when a prospective client or advisor calls our office. During this first call, we try to gain a basic understanding of the situation and your concerns. We provide information about our firm and schedule a time for you, your family and, if desired, your trusted advisors, to meet with us. We send you a package by mail that will assist you in gathering the information and documents that we will need to evaluate your situation and legal options. The package confirms the dates and times for our first meetings, provides driving directions and more information about our firm and process. All engagements follow our firm's standard process of *Review, Design* and *Implementation*.

### REVIEW

**GATHER THE ESTATE** Our first step is to gather information about the decedent, the estate documents and assets. We get an overview of your concerns and explain the process ahead.

**EVALUATE** Our team conducts a preliminary evaluation to review the information and assess the complexity of the administration and whether our services will be of benefit.

**INITIAL VISIT** In our next meeting with you, we gain a more thorough understanding of the estate and family dynamics, goals and wishes. At this point, we provide our evaluation of the legal documents and concerns, a detailed overview of the estate and discuss timelines and costs.

Upon engaging us to help, the Trustee or Personal Representative ("the Fiduciary") will sign the initial administration documents and receive our Administration Portfolio which includes:

- A summary of our meetings to date;
- A framework and timeline for the process;
- Information and tools to assist the Fiduciary at each step along the way in keeping proper records and performing his or her duties.

### DESIGN

**CREATE FIDUCIARY AUTHORITY** We will prepare documents and explain the steps to establish legal authority to act on behalf of the estate or trust and interact with financial institutions, government agencies, beneficiaries and family members.

**ANALYZE AND TEST** We again meet internally with your tax and financial advisors to discuss options and create a preliminary plan for the allocation, distribution or division of assets. The plan balances the family's desires with the dictates of the estate plan documentation, the Fiduciary objectives, and tax law advantages.

**PRESENT THE PRELIMINARY PLAN** The Collaborative Team then meets with the Fiduciary to go step-by-step through the plan for feedback and approval.

**BUILD THE PLAN** Each Advisor then prepares the appropriate documentation and paperwork for implementation. During this internal phase, the advisor team reviews and resolves outstanding issues and concerns and prepares for the implementation meeting with the Fiduciary.

### IMPLEMENTATION

**IMPLEMENT** We review and confirm all aspects of the plan with the Fiduciary who signs documentation from each Advisor in order to implement the plan. The entire implementation is reviewed and the Confirmation Meeting is scheduled.

**CONFIRM** At our final meeting, we review and address:

- Any final concerns of the Fiduciary;
- The implementation details and any issues pending resolution; and
- The complete Administration Portfolio for the Trust or Estate.

### WHEN DISPUTES ARISE

When family members disagree on how to care for a loved one or how to administer their financial estate, it can create unneeded stress and often it results in damaged relationships.

We help families to mediate conflicts with the goals of improving relationships, minimizing expense and coming to a mutually agreeable solution. If mediation is not possible, we also assist with probate and trust litigation.

## FEES & EXPENSES FOR ESTATE SUCCESSION

### CALIFORNIA PROBATE FEES

4% on the first \$100,000; plus 3% on the next \$100,000; plus 2% on the next \$800,000; plus 1% on the next \$9 million; and 0.5% on the next \$15 million. 'Reasonable' compensation on estates valued above \$26 million.

Attorney compensation in California Probate matters are set forth in the California Probate Code. Compensation is calculated as a percentage of the fair market value of all assets in the probate estate. The Personal Representative earns the same fee. Additional compensation is often earned by the attorney, personal representative, or both, for services that are considered "extraordinary" in nature. On retaining our firm to help, our client will only need to provide an advance payment for initial filing costs and expenses. No fees are paid to our firm until a judge approves our request for compensation. In Trust Administration matters, we generally quote a flat fee for our services after we have had an opportunity to evaluate the complexity of the matter. Generally, these fees are one to two percent of the value of the estate. Less frequently, we will assist Trustees on an hourly basis.

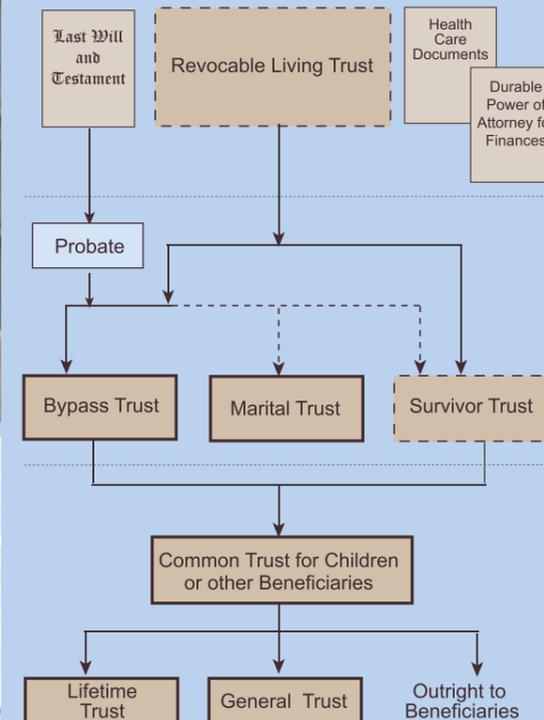


## HOW DO TRUSTS WORK?

A trust is an agreement among three people who fill specific roles:

- the person with the assets (the "trustor", "settlor", "grantor" or "trustmaker");
- the individual or company who manages the assets (the "trustee"); and
- the people who benefit from the arrangement (the "beneficiaries").

Often all three roles are filled by the same individual or couple who creates a revocable living trust. On establishing a revocable living trust, the trustmaker retitles assets into the name of the trustee of the trust. If the trustmaker loses capacity or passes away, the "successor trustee" takes over the job of managing the assets for the benefit of the beneficiaries. Probate is avoided only if there are no assets titled in the individual name of the deceased person.



There is an endless variety of ways that a trust can be structured. It is important to carefully read the individual trust instrument in order to understand how it works and what needs to happen. Titles can be misleading, and there are sometimes various names used to describe the same thing.

To the left is a framework that illustrates some of the options that are commonly found in trusts. A single trust document can contain several "subtrusts" that are created after a trustmaker passes away. In these trusts, a single document can control the use of assets for generations. The quality of trust documents is crucial. Inaccurate wording can create delays, additional expense and, in the worst case, litigation.

## WHAT IS PROBATE?

Probate is a court proceeding where a judge oversees the proper administration of a decedent's estate. It is required whenever there are assets in the individual name of a decedent, and the aggregate value of those assets is \$100,000 (or less if there is real estate) or more.

As with a trust, Probate involves different roles:

- the "decedent" is the deceased person with the assets;
- the "personal representative", "administrator" or "executor" is the individual or company who administers the assets;
- "creditors" are those to whom the decedent owed money at the time of death;
- the "beneficiaries" are the people who were named to receive the assets;
- the "heirs" are the people that California law considers naturally entitled to receive assets, whether or not they were named as beneficiaries;
- a "court referee" who appraises the assets; and
- let's not forget: a judge.

People sometimes think that they will avoid probate if they have written a Will. The opposite is in fact true: a Will is your ticket to Probate Court. The word *probate* comes from the Latin word *to prove*, and the purpose of probate was to prove the legitimacy of the Will and oversee its execution. Probate often takes a year or longer.

# WEALTH STRATEGIES FOR INHERITORS



Gifts and inheritances are special assets that must be properly considered in your estate plan. We help inheritors with difficult decisions when accepting or disclaiming gifts and inheritances, including whether to transmute or keep as separate property. We design plans to preserve and protect assets from creditors, lawsuits and divorce while maintaining control and access.

Our planning process begins when a prospective client or advisor calls our office. During this first call, we try to gain a basic understanding of your situation and concerns. We provide information about our firm and schedule a time for you, your family and, if desired, your trusted advisors, to meet with one of our attorneys. We send you a package by mail that will assist you in gathering the information and documents that we will need to evaluate your situation and legal options. The package confirms your initial visit date, provides driving directions and more information about our firm and process. All engagements follow our firm's standard process of *Review, Design and Implementation*.

## PREPARING FOR THE INITIAL VISIT

To make the most of our time together, you will need to complete and return our Confidential Client Profile along with a list of supporting documents. This information is needed one week in advance of your initial visit.

## HOW WE PREPARE

Just as you prepare for our Initial Visit, we also prepare for you. We do a detailed evaluation of your personal concerns and family information, existing estate plan documents and asset information. We analyze and compile a report of your anticipated costs and taxes.

## REVIEW GAIN CLARITY

During our first meeting, we get to know each other. We discuss your concerns to learn more about your personal goals and wishes. We also review the results of our evaluation and your planning options and how we can help. Fees, timelines and expectations are confirmed in writing.

## DESIGN YOUR VISION OUR EXPERIENCE

We discuss your goals, concerns and desires in detail taking into account your family dynamics. We counsel you in designing a complete plan to protect yourself, your loved ones and your assets. You set standards for your own care during a possible incapacity and make a plan for the transfer of your assets. We confirm your main decisions in writing and ask you to approve these before creating final legal documents.

## IMPLEMENTATION PUT PLANS IN PLACE

After your documents are created, we review each plan to ensure that it is complete and accurate before presenting it to you. We then meet with you to review the plan and answer any remaining questions before signing. The last step of implementing your plan is making title and beneficiary changes as appropriate.

## SUCCESSPLAN™ MAINTAIN THE PLAN

Our SuccessPlan™ Maintenance Program helps to ensure the ongoing success of Members' Plans. We facilitate an annual review of your plan to see that goals and desires will be honored as they evolve over time, and provide free or discounted Plan updates and amendments.

\*For complete coverage details, please ask to see our SuccessPlan™ documentation.

*It is our greatest joy to also help:*

- Business Owners,
- Real Estate Owners,
- Elders and their concerned family members;
- Families with taxable estates, and
- Foreign Domiciliaries ...

To resolve messes, transitions, protection or complex tax issues to achieve their goals. *Please contact us to learn how we can be of service to you and your family.*



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