Recent Estate Planning Developments

& Newsletter

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ALL OF US AT SHAFTEL LAW OFFICES, P.C., WISH YOU AND YOUR FAMILY A WONDERFUL HOLIDAY SEASON AND A HEALTHY & PROSPEROUS NEW YEAR!

IN THIS EDITION

Recent federal and state law changes have presented Alaskans with a great opportunity to simplify and update their estate planning. The federal gift and estate taxes have been reduced, estate planning for income taxes has become crucial, and state administrative provisions have been improved. Planning and adjustment is the best way to obtain the benefits, and avoid the pitfalls, of these changes.

Dave's lead article discusses the new prominent role that federal and state income tax planning plays for your estate planning. Brad discusses the often overlooked traps that other states' estate taxes can create for Alaskans owning property outside of Alaska. In the administrative area, Casey describes our state's new disposition of remains statute. Then Melanie discusses Alaska's new Transfer on Death Deeds, which avoid the probate process and are especially useful in small estates.

Jamie's article discusses asset protection and how careful planning for your IRA or retirement account can almost double its financial benefit. Dave Rohlfing discusses Special Needs Trusts, which provide a very valuable tool for families with handicapped or infirm members.

Our last article provides you a "refresher" about perpetual trusts, which are now being used by many clients with substantial estates.

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TAX PLANNING IS REWARDED

by Dave Shaftel

In the estate planning area, which involves transfer taxes (gift, estate, and generation-skipping transfer taxes), and income taxes (federal and often state), planning is richly rewarded. Conversely, lack of planning can be severely punished. The recent changes in the federal transfer taxes, which have resulted in a higher exemption amount of $5,430,000 in 2015, and a lower tax rate of 40%, make the need for planning even more important. This is because now the choice between saving transfer taxes or saving income taxes, involves careful analysis.

Plan to Minimize Both Estate and Income Taxes

Income Tax Rates. Let us look at some relevant income tax rates. Long-term capital gain and qualified dividends are taxed at 20%. There is a Medicare tax of 3.8%. As a result, if a capital asset is sold in a state like Alaska, which does not have yet have a state income tax, the tax rate is 23.8%. However, in some states there is an additional income tax that can be as high as 13.3%. For example, in California, the sale of an appreciated residence can result in federal and state capital gain taxes of 37.1%. Similarly, Oregon and Hawaii have very high state income taxes.

Basis. How do these income tax rates fit into your estate planning? To understand this, we need to examine some income tax fundamentals. The key planning goal is to maximize the extent to which you get a basis adjustment at death. Basis is generally the amount you paid for property, whether real estate or, for example, stocks and bonds. If an asset appreciates in value, the difference between its fair market value and its basis is the amount that is taxed as capital gain. The income tax law provides a valuable tax benefit when a person dies. The decedent's basis in an asset is adjusted to its fair market value. As a result, that asset can be sold without having to pay any capital gains tax.

A Choice: Save Estate Taxes or Income Taxes. Now let us look at the estate tax aspect of our planning. We know assets owned by the decedent will be subject to the federal estate tax. Often we have done planning to move assets from an individual's ownership to ownership by an irrevocable trust. With this estate planning, assets owned by the trust are not taxed under the federal estate tax when the person dies. However, assets owned by the irrevocable trust will generally not receive an adjustment of basis.

This raises the question: should assets be owned by an individual, receive a basis adjustment at death, and therefore save income taxes, or should the assets be owned by an irrevocable trust in order to avoid federal estate tax? With the changes in the federal estate tax exemption amount ($5,430,000 in 2015, and going up to $5,450,000 in 2016) and tax rate (40%), and with federal and state income taxes higher, this planning decision becomes more complex. Each person's situation will be different. As noted above, planning will be rewarded and lack of planning will be punished.

Asset Protection. In addition to the tax considerations, we need to consider asset protection planning. Assets that are in irrevocable trusts protect beneficiaries from creditor claims. Those claims can result from divorce, personal injuries, professional negligence, and bad investments.

Goals. Consider these three important goals:

1. Avoiding federal and state estate taxes by estate planning transfers to irrevocable trusts;
2. Minimizing federal and state income taxes by basis adjustments at death; and
3. Obtaining asset protection for your beneficiaries.

With good planning, you can obtain at least two of these three goals and sometimes all three.

Techniques. Here are some income tax planning techniques that are important in this environment:

- Building flexibility into your estate planning documents so that when the first spouse dies a choice can be made between putting assets into a bypass trust (and thereby excluding them from the taxable estate of the surviving spouse) or putting assets into a marital trust (which would be included in the surviving spouse's estate). Assets included in the surviving spouse's estate will receive a second basis adjustment at that spouse's death. Moreover, this approach can take advantage of the new "portability" technique, which lets the surviving spouse preserve the deceased spouse's remaining estate tax exemption in order to reduce or eliminate taxes at the surviving spouse's death.
- Electing into Alaska's optional community property system so that both spouses' shares of community property will achieve an adjustment of basis at the first spouse's death.
- Funding of trusts with high basis assets rather than low basis assets.
- "Swapping" high basis assets for low basis assets which are already in irrevocable trusts.
- "Turning off" discounts on the value of assets in order to obtain a higher adjustment of basis at death.
- "Forcing" estate tax inclusion of assets owned by a person who otherwise would not be subject to federal estate tax at death in order to obtain an adjustment of basis of those assets.
- Giving a "limited" general power of appointment to a beneficiary in order to get a step-up basis of assets in a trust.

These are just some of the many techniques that are now being used by planners to obtain income tax savings when estate taxes are either no longer at issue or, in a particular person's situation, not as important to save as are income taxes.

Planning. Recent changes in the federal estate tax law are very welcome in that they relieve many people from some or all of the burden of these transfer taxes. However, as discussed above, in many situations we will need to choose between saving estate taxes and saving income taxes. As a result, estate planning concerning tax matters has become more complicated.

We are available to assist you in analyzing your personal estate planning tax situation and to recommend solutions.

STATE ESTATE TAXES

by Brad Quisenberry

We are all aware that the federal government levies gift or estate taxes when we transfer property. If we transfer it during our lives, a gift tax is levied. If property is transferred at death, the federal estate tax applies. Recent legislation has greatly lessened the burden of these taxes. In 2015, an individual may transfer $5,430,000 of assets without being subject to these taxes. Greater amounts will be taxed at a rate of 40%.

What is Given by One Hand is Taken Away by the Other

Feds Won't Share. However, most people are unaware that many states have either an estate tax or inheritance tax. The reason for these state taxes is that states no longer share in a portion of the federal estate taxes. Prior federal law allowed states to enact "pick-up" taxes that in effect allowed each state to share in a portion of the federal estate taxes which were collected. However, when Congress changed federal tax rates, it also eliminated the sharing of federal estate taxes with states. Commentators have opined that Congress was shifting some of the burden of lost taxes onto the states.

States React. As a result, many states have enacted their own estate taxes. At last count, seventeen states have enacted state estate or inheritance taxes. Many state estate taxes have exemption amounts which are significantly smaller than the federal $5,430,000 exemption. For example, Washington's exemption amount is $2,054,000. Oregon's exemption amount is $1,000,000.

Alaska. So far, Alaska is one of the states that has not changed its law in order to collect estate taxes. It is possible that Alaska may change its position in view of present economic circumstances.

A Tax Trap. However, the fact that Alaska does not have a state estate tax does not protect Alaska residents from another state's estate tax. An Alaska resident who owns property in another state that imposes an estate tax may well end up paying estate tax in that other state. This is because a levy of the state estate tax is not based on residency at the date of death, but instead, on whether the decedent owned property in a taxing state. For example, imagine an Alaskan resident dies with a $2,000,000 in financial assets, $900,000 in Alaska real property, and $100,000 in real property located in the State of Washington. In 2015, the applicable exclusion against Washington's estate tax is $2,054,000. Because the value of property in Washington in this example was far below the exclusion amount, one would not think that any tax would have to be paid to the State of Washington, but that assumption would be wrong. The State of Washington requires the decedent's executor to calculate the amount of tax that would be due on the entire federal estate (everything the decedent owned), and then determine the pro-rated amount of Washington estate tax due, based on the proportion of the Washington property's value in relation to the value of the decedent's entire estate. So not only can owning a small amount of property outside the State of Alaska subject your estate to additional estate taxes, but it can also create the burden for your executor to file a complex (and expensive to prepare) state estate tax return.

Planning. Often the payment of state estate taxes can be avoided if addressed before death. For example, many of the states that impose an estate tax do not have a corresponding gift tax. This means that a trust can be established to hold the out-of-state property. Once the property has been gifted to the trust, the donor will no longer own it for state tax purposes, eliminating the need to file a state estate tax return and the resulting payment of state estate taxes when the donor dies. In some states, minimizing state estate and inheritance taxes may be more complicated to achieve, but

proper planning can certainly mitigate if not eliminate the tax burden in many cases.

If you have property in a state which has a state estate tax, we are available to help you plan to minimize these taxes.

PROVIDING FOR THE DISPOSITION OF YOUR REMAINS

by Casey Carruth-Hinchey

These days, there are three short documents that every Alaskan should have as part of his or her estate plan. While not the centerpiece of your estate plan, like a will or a revocable trust might be, these three documents nevertheless are important components of any comprehensive estate plan. You may be familiar with two of them: the durable power of attorney and the advance health care directive. The durable power of attorney allows you to name an agent to act for you with respect to your financial affairs. The advance health care directive allows you to name an agent to act for you with respect to health care decisions, and gives you the option to provide certain directions and express your wishes for your care in advance. The advance health care directive replaced the health care proxy and living will that were previously in use. The general power of attorney and advance health care directive are in force only during the principal's lifetime; the death of the principal ends the agent's authority to act.

Disposition of Remains Document. The third document that each Alaskan should consider adding to their estate plan is called the disposition of remains document which has been available only since late 2013. The disposition of remains document lets you name an agent to handle the arrangements for the disposition of your physical remains after your death. It also gives you the option of specifying your wishes and giving certain directions to your agent. For instance, you could indicate that your remains are to be cremated and your ashes kept or scattered at a place meaningful to you, or you could give instructions for burial at a particular cemetery and directions for the service. If you have already made arrangements with a funeral home, you can alert your agent using this document. Unlike the general power of attorney and advance health care directive, the disposition of remains document goes into effect only after death.

Planning Will Avoid Conflicts

Avoid Conflict. With a separate disposition of remains document, you can clearly indicate who you would like to be in charge of handling your disposition arrangements, and that agent can exercise their authority without the burden of having to produce your will or proof that they are next of kin. This can help prevent delay and potential friction between family members. Unfortunately, situations have occurred where family members argued about how and where the decedent's remains should be disposed. This has produced unnecessary family grief and has even led to litigation.

Privacy. Keeping your disposition instructions and agent designation isolated in a separate document, rather than in your will or advance health care directive (which is where disposition instructions are otherwise often located), means that your agent does not need to produce these unrelated estate planning documents in order to act on your behalf. This helps keep sensitive, personal information confidential.

Keep Updated. If you do not already have a disposition of remains document in place, you should add it to your current planning. In

addition, all three of these documents—the durable power of attorney, advance health care directive, and disposition of remains document—should be updated approximately every five years in order to prevent them from becoming stale. Many institutions will only rely on documents executed within that time frame. Of course, if there is a substantial change in your life, such as a change in marital status, the death of one of your agents, or a significant change in your financial net worth, you should review your documents carefully and contact us if you wish to make changes.

We are available to quickly assist you in updating these basic estate planning documents.

A NEW STRATEGY FOR AVOIDING PROBATE: TRANSFER ON DEATH DEEDS

by Melanie Iverson-Kaufman and Casey Carruth-Hinchey

Probate is a court-supervised process by which property passes to a person's heirs through will or intestacy. However, not all property must go through probate. Careful inclusion of non-probate transfers as part of your estate plan can often simplify the administration of your estate. This has the potential to lower administrative costs after your death and ease the burden on your heirs at a time of grief.

Avoid Probate for Real Estate Transfers

Last year the Alaska legislature enacted a law authorizing a method of transferring real property without the need for that property to go through probate. Transfer on death (TOD) deeds allow an owner of real property to designate beneficiaries in the deed itself. The property then automatically transfers to the beneficiaries at the owner's death.

Using a TOD deed lets an owner of real property avoid probate on the property at death, without sacrificing any control over the property during life. An owner who has executed a TOD deed for their interest in real property may still sell or encumber that property just the same as if there were no TOD deed, and the TOD deed remains revocable until the death of the owner. Accordingly, the beneficiary of a TOD deed does not have any interest in the property during the owner's lifetime. This means that executing a TOD deed will not subject the property to claims of a beneficiary's creditor that could jeopardize the owner's interest in the property, which could happen if the owner had instead made a lifetime gift to the beneficiary of an interest in the property. In addition, transferring appreciated real property using a TOD deed rather than by a lifetime gift means that the beneficiary will receive the property with a basis that is "stepped up" to the property's fair market value as of the transferor's date of death, instead of the transferor's lower "carried-over" basis. This income tax benefit can save the beneficiary from paying capital gains tax that might otherwise be owed if the property is eventually sold.

If the property is owned by more than one person as joint owners with a right of survivorship (in Alaska this type of ownership is currently only available to married couples), the joint owners together can execute a TOD deed to name beneficiaries who will receive the property after the death of the last surviving joint owner. This provides married couples with a tool for avoiding probate of the property both at the death of the

first spouse to die and at the death of the surviving spouse.

Although the authorization of TOD deeds is an exciting new development in Alaska law, they are not appropriate for every situation. The Alaska law only applies to real property located in Alaska. Certain restrictions on naming beneficiaries means that TOD deeds do not allow for contingency planning the way a will does. However, they may be appropriate for people with relatively simple estate plans.

We can provide further information about whether your estate plan would benefit from inclusion of a TOD deed.

MAXIMIZE AND PROTECT YOUR RETIREMENT ACCOUNT

by Jamie Delman

It is well known that qualified retirement plans are tax preferred. While most people intuitively understand that the income-tax deferral associated with retirement plan accounts is beneficial, it is difficult to overstate the economic benefit of this deferral. An example will help illustrate:

Assume that Samantha is 23 years old and saves $10,000 in 2015. She contributes $5,000 of that savings to a traditional (non-Roth) retirement account and puts the remaining $5,000 in a non-retirement brokerage account. Before taxes, each account generates returns averaging 6% per year and investment income earned in the taxable non-retirement account has an effective tax rate of 25%. If Samantha avoids taking a distribution from either account until she reaches age 70.5 (when she will have to start taking required minimum distributions from the retirement account), at that point the retirement account will be worth $79,616 and the non-retirement account will be worth $40,457—about half as much. As long as assets remain in the retirement plan account, they will continue to enjoy tax-free growth. Therefore, Samantha should refrain from withdrawing retirement plan funds in excess of the required minimum distributions to the extent possible.

This principle—keep it in the plan, if you can—doesn't just apply to Samantha. It also applies to her surviving spouse and other heirs. While non-spouse heirs are subject to different minimum distribution rules than spouses, it will always be beneficial, from a tax perspective, to keep as much funds in the retirement plan for as long as possible.

Keep it in the Plan, if You Can

Protection From Creditors. In addition to the tax benefits described above, Samantha will enjoy creditor protection for assets contained in her retirement accounts. And at Samantha's death, if her surviving spouse elects to take over Samantha's account (or roll it into his own) the account will continue to be protected from his creditors.

After both Samantha and her spouse have died, the asset protection rules change. Assume that Samantha's account goes in equal shares to her two children. According to a Supreme Court decision from 2014 (*Clark v. Rameker*), inherited retirement accounts are ***not*** protected, for federal bankruptcy purposes, from the creditors of the account's owner.

While, at first blush, the *Clark* decision seems to prevent asset protection for inherited retirement accounts, the rule is not as broad as it seems. For residents of Alaska and some other states, inherited retirement accounts are specifically exempted from bankruptcy and therefore not subject to the rule from *Clark*.

Alaska has very strong creditor protection rules related to inherited retirement accounts. However, the rules can only protect a beneficiary who is an Alaska resident at time he/she files for bankruptcy. Thus, in light of the *Clark* decision, many clients with children living outside Alaska are now choosing to name a specialized trust as the ultimate beneficiary of their retirement accounts, instead of their children outright. These trusts can hold inherited retirement accounts, but will generally not be subject to the creditors of the trust beneficiaries. A trust that inherits a retirement account can either be a "conduit trust" (meaning, typically, that each year the trustee takes the required minimum distribution from the plan and distributes it to the trust beneficiary) or an "accumulation trust" (meaning that the trustee can choose to keep retirement account distributions in trust). Both types of trusts have distinct advantages and disadvantages.

IMPORTANT: Do not make an existing trust a beneficiary of your retirement account without first consulting us; if a trust is not specially designed to hold retirement assets, the trustee will be forced to liquidate the retirement account within five years at a potentially significant tax cost.

If you are interested in setting up a trust to hold retirement assets, please call our office to schedule an appointment with one of our attorneys to discuss this further.

SPECIAL NEEDS TRUSTS

by Dave Rohlfing

Many people have special needs—whether arising at birth or caused by illness, accident or the effects of old age. Families often struggle with the problem of how to provide for quality of life while retaining the ability to qualify for state public benefit programs. A special needs trust can be a very valuable tool to assist in accomplishing this goal.

Special needs trusts (sometimes referred to as supplemental needs trusts) are created to hold assets for a beneficiary who cannot or should not own the assets outright. The beneficiary may be physically or mentally disabled or may suffer from an illness, and ownership of the assets might render the beneficiary ineligible for certain means-tested public or private benefits, such as Supplemental Security Income (SSI), Medicaid, or Alaska Public Assistance (APA). Similarly, a beneficiary's ownership of the assets or right to income from those assets might limit his or her access to public funding for long-term care. Additionally, a relative of a disabled beneficiary might want to leave assets to provide for the beneficiary's needs, but be concerned about the possibility of the assets being subject to the beneficiary's medical creditors, or about the beneficiary's ability to manage and maintain those assets.

Help Without Harming

There are two basic types of special needs trusts—those created with the assets of a person other than the beneficiary (called a "third party trust"), and those created with the assets of the beneficiary (called a "first party trust").

Third party trusts. A third party special needs trust is often created by a parent or other relative of a beneficiary who suffers from a disability or illness. The person forming a third party trust might establish it during life or at death. A third party trust that is created to maintain the beneficiary's eligibility for means-tested benefits

for the disabled, elderly, or needy is only effective if the beneficiary legally has no "right" to access or acquire the trust assets. Instead, the special needs trustee is instructed to make distributions for the benefit of the beneficiary in order to provide for needs not met by public or private benefits, and to improve the beneficiary's standard of living in general. The assets of a third party trust are intended to be protected from the creditors of the beneficiary. Also, the person creating and funding the trust can provide direction for disposition of the remaining assets after the special needs beneficiary dies or no longer needs the assets.

First party trusts. A first party trust is created with the assets of the trust beneficiary. For example, a disabled beneficiary may have received a recovery in a personal injury suit. The recovery might otherwise disqualify the beneficiary from receiving public benefits. In this case, the beneficiary can create a first party special needs trust to hold those assets while retaining access to benefits. A first party trust is allowed by federal statute, and generally must be approved by the state agency tasked with administering public benefits. In Alaska, this is the Division of Public Assistance. Among other requirements, a first party trust must contain a provision which directs trust assets to be made available to repay certain public benefits programs upon the beneficiary's death, and only thereafter can the assets be passed on to remainder beneficiaries.

Planning. Both types of special needs trusts are valuable planning tools. Third party trusts are especially useful for folks who are concerned about a family member who is likely to require access to public health benefits or who is unable to manage assets. First party trusts can often allow a disabled family member to receive superior treatment or access to facilities that are only available under public assistance.

There are many factors to be considered when determining whether it is advisable to form a special needs trust.

We are available to help you with analysis and implementation of a special needs trust.

PERPETUAL TRUSTS—A POPULAR NEW DISPOSITIVE APPROACH

by Dave Shaftel

Perpetual trusts have become very popular and are almost a default approach for clients with substantial assets. The goals of perpetual trusts are to provide asset protection, minimize estate and generation-skipping transfer taxes, and yet allow a competent beneficiary to be trustee of his or her own trust, manage and invest the assets, and make distributions.

The Dispositive Plan. Perpetual trusts have been allowed in Alaska since 1997. This means that a trust formed by you (during your life or after your death) will be available to provide benefits to your descendants and their families (or other beneficiaries) for as long as the trust continues to have assets. (Some specialized Alaska trusts even allow you and your spouse to also be discretionary beneficiaries.) Usually a perpetual trust is divided into shares and subtrusts, one for each of your children. Then the income and principal of the child's subtrust will be used for the benefit of the child (the primary beneficiary) and your child's descendants. Often a trustee is given complete discretion to make distributions to them for any purpose, after taking into consideration their income and other resources, and the effect that any of these distributions will have upon them. In addition, the trustee may provide your beneficiaries with valuable benefits, such as use of a trust-owned residence, without actually

distributing income or principal to them. After each child's death, that child's subtrust is divided among his or her children, and each of them becomes a primary beneficiary of a separate trust. These trusts will be administered and distributed pursuant to the same type of directions as those which apply to your child's subtrust. As each primary beneficiary dies, new trusts will be created for that deceased primary beneficiary's descendants. This plan will continue from generation to generation until the trusts run out of assets. Some clients desire to also include the spouses of their descendants in the above-described dispositive plan.

Perpetual Trusts provide the following benefits:

1. **The trust assets are protected from your descendants' creditors.** These creditors can include judgment creditors from commercial transactions, professional negligence, or personal injury claims. Further, the assets can be protected from a property division upon divorce. Your perpetual trust also provides protection against improper influences that may result from a descendant's inability, immaturity, inexperience, or incapacity to manage assets.
2. **Probate is avoided** for assets held in the trust.
3. **Estate taxes are minimized.**
4. The perpetual trust provides an **"estate plan"** for your descendants which is already in place.
5. The **primary beneficiary** of a subtrust can be the **trustee** of his or her subtrust. This allows the primary beneficiary to manage and invest the assets, and make distributions to himself or herself and that beneficiary's descendants.
6. **Each descendant may be given considerable flexibility to modify the trust's dispositive plan.** A primary beneficiary is often given both a lifetime and a testamentary special power of appointment. This allows the primary beneficiary to gift trust assets during the beneficiary's lifetime and to change the estate plan at the primary beneficiary's death.

Tax Savings. The transfer taxes with which we are concerned are the federal gift tax, the federal estate tax and the federal generation skipping transfer tax. The federal estate tax applies when a person transfers assets at death. It has a 40% rate in 2015 after you have transferred $5,430,000 of assets. If you design a trust which continues for multiple generations, the federal estate tax will apply to the first transfer to the trust. Generally, the estate tax will not apply to trust assets when an older generation ceases to be the beneficiaries and a younger generation becomes the new beneficiaries. In 1986, Congress enacted the Federal Generation-Skipping Transfer tax (the "GST tax"). This tax is designed to apply to the transfers from generation to generation, when the federal estate tax does not apply. The GST tax is always at the maximum estate tax rate (40% in 2015). However, Congress provided each person with the ability to protect an amount from application of the GST tax. This protection is accomplished by allocation of exemption to transfers (during life or at death) to individuals or to trusts you created. The GST exemption amount is the same as the gift and estate tax applicable exclusion amount ($5,430,000 in 2015).

Transfers. You may decide to transfer assets to your perpetual trust during your lifetime. These assets will be accounted for under the federal gift tax. At present, you can gift up to $5,430,000 tax free, using your applicable exclusion amount.

Alternatively, or additionally, your estate planning may direct that certain assets be transferred to your perpetual trust at the death of the first spouse or at the death of the surviving spouse. These transfers will be accounted for under the federal estate tax. Finally, other irrevocable trusts which you have created may direct that some or all of their assets be transferred to your perpetual trust. These transfers may have already been accounted for under the federal gift tax.

GST Tax. When the above-described transfers are made to your perpetual trust, the trustee is directed to divide the assets into GST exempt trusts and GST non-exempt trusts. As discussed above, the GST exempt trusts are those that are protected by allocation of you and your spouse's exemptions from the GST tax. If assets are allocated to the perpetual trust in excess of your available GST exemption amounts, then the excess assets will be allocated to "non-exempt" trusts.

Assets in non-exempt trusts will be subject to transfer taxes at each successive generation. However, assets of GST exempt trusts will not be subject to transfer taxes in the future. These assets may be used for the benefit of your children, grandchildren, greatgrandchildren, and so on, without any further transfer taxes. This is an extremely valuable benefit of the perpetual trust. The compounding growth of the perpetual trust's assets is far superior to the growth of assets subject to transfer taxes at each generation. To illustrate this benefit, compare the compounded growth of a perpetual trust funded with $1,000,000, not subject to further inheritance taxes, to family assets of $1,000,000 which are taxed at each generation (assume thirty years per generation). Assume a six percent growth rate (that is, growth of nine percent per year, less 33 percent income taxes).

In this example, after 30 years the perpetual trust has twice the value as compared to a family which did not create such a trust. After sixty years (two generations), the perpetual trust has three times as much value!

Nonresidents of Alaska Are Using Perpetual Trusts. Nonresidents of Alaska may choose to form an Alaska perpetual trust in order to take advantage of Alaska's law. In order to establish adequate contacts with Alaska, the Alaska statutes require an "Alaska qualified trustee." Such a trustee must be an individual domiciled in Alaska or an Alaska trust company or bank. Other co-trustees may be nonresidents. The Alaska qualified trustee's powers must include maintaining records for the trust on an exclusive or non-exclusive basis, and preparing and arranging for the preparation of any income tax returns that must be filed by the trust, again on an exclusive or non-exclusive basis. It is recommended that an Alaska perpetual trust have an Alaska qualified trustee, and that some of the trust assets be located in Alaska.

Our office can provide you with additional informational material concerning perpetual trusts. Alternatively, call for an appointment to discuss this popular trust.

OUR NEW ATTORNEYS

David C. Rohlfing. Dave graduated magna cum laude in 2013 from the University of Pittsburgh School of Law. While at Pitt Law, he was chosen as the lead executive editor of the University of Pittsburgh Law Review, was active with the law school's student public interest foundation, and worked at the school's low income taxpayer clinic.

Dave joined the firm in 2013 to practice estate planning and probate law. He grew up in Connecticut and received a B.A. in Sociology from Western Connecticut State University. In his free time Dave enjoys music of all sorts, bicycling, photography, and cooking.

Melanie Iverson-Kaufman. Melanie has been an associate at the firm since January 2015, with a practice focused primarily on trust administration and probate. Born and raised in Alaska, Melanie left the state to attend college and law school. She received her B.A. in Political Science from New College of Florida and her J.D. from Willamette University College of Law. During law school Melanie clerked at the U.S. Attorney's Office for the District of Oregon, was an enthusiastic student of the school's Trusts and Estates Legal Clinic, and served as an executive editor of the Willamette Law Review.

Melanie is a member of both the Oregon State Bar and the Alaska Bar Association. She is thrilled to once again be living in her home state. In her spare time, Melanie can usually be found in a ballet class or enjoying the beautiful Alaskan outdoors with her husband and children.

www.shaftellaw.com

You may refer to our website for a variety of information:

- A "what's new" discussion of developing estate planning subjects;
- New state legislation affecting estate planning
- Discussion of a number of relevant estate planning techniques;
- Our past newsletters;
- Key Alaska estate planning statutes; and
- Many articles which we have written about Alaska estate planning techniques.

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