

Enduring Wealth



THE LAW OFFICES OF JOHN C. MARTIN

Volume 1, Issue 1

February 23, 2009

The Estate Planning that Every Person Needs



Is Estate Planning just for the super-wealthy? Not by any means! This article explores four estate planning documents that every person, rich or poor, should have in place regardless of the size of their estate.

The first document is an advanced health care directive (next month's article). What will happen if you get into a car accident and are incapacitated?

Who will continue to make health care decisions on your behalf? The advanced health care directive ensures that your wishes will govern how health care decisions are made in the event of a tragic accident. This shouldn't be put off until one faces serious debilitation. Consider the cases of Terry Schiavo and Nancy Cruzan- both in their 20s at the time that they had serious accidents and lapsed into coma.

The second essential document is the power of attorney for financial management. Like the health care directive, the power of attorney anticipates future incapacity or a tragic accident. A power of attorney should be customized to a person's individual circumstances. For instance, how should finan-

cial account information be disclosed? Should the agent in the power of attorney have power to set up or terminate trusts? A skilled lawyer can ensure that the power of attorney addresses a person's particular circumstances.

Third, individuals should have a will to determine where their property will go and to appoint a guardian for their children. Having a will is important when the default rules of the CA probate code would result in gifts at death that are out of line with your intentions and wishes.

Finally, every parent should have a plan in place to provide who will take care of the children in the event of an accident. In the absence of such a plan, Child Protective Services would make the decision for you.

Four Solutions for a Successful Family Business Succession

According to *The Practical Lawyer*, 90% of all businesses in the United States are family businesses. These are businesses owned or controlled by members of the same family. Family owned businesses are very important to the US economy, creating 60% of total US employment, 78% of all new

jobs, and 75% of wages paid. Over the next 4-5 years, 40% of these family businesses will be handing off the reigns of control to the succeeding generation. However, it is predicted that only 12% of businesses that pass to the second generation will survive to the third generation.

What are the main problems that arise in family business successions, preventing succession to the second, third, and fourth generations? The most obvious impediment to successful family business succession is the estate tax bill. *Continued on Page 2...*

What's Making News at Law Offices of John C. Martin

- WE'VE HUNG OUR SHINGLE! CHECK OUT THE NEW SIGN AT 1145 MERRILL STREET IN MENLO PARK
- NEW TO THE WEBSITE: WE'VE RECENTLY ADDED AND "ARTICLES AND INFORMATION" SECTION FOR FREE ONLINE LEGAL INFORMATION .

Inside this issue:

SUCCESSFUL FAMILY BUSINESS SUCCESSION	2
MENLO SMALL BUSINESS OWNERS CONVERGE	2
NOW IS THE TIME TO GIFT	3
LEARN MORE ABOUT ESTATE PLANNING	3

Enduring Wealth



Four Solutions for a Successful Family Business Succession

“THE STRUCTURE OF THE FAMILY BUSINESS, SUCH AS A CORPORATION, PARTNERSHIP, OR AN LLC, CAN ENSURE THAT THE BUSINESS WILL BE KEPT IN THE FAMILY.”

Continued from page 1. Numerous Bay Area small businesses will face a large estate tax during the next 5-10 years. Being forced to pay hefty tax bill prevents owners from having sufficient capital to keep the business in operation.

Yet, perhaps more overlooked by business owners are issues completely unrelated to estate taxes. First, dysfunctional family power dynamics and sibling rivalry can curb preparation of the succeeding generation for management. Second, even if there no overt conflict exists, older generations may not wish to let go of management because of the fear of losing their leadership role in the family. Third, significant age differences between parent managers and their children (often 20 to 35 years) can lead to a discon-

nect between managers and protégés, reflected by divergent expectations on how the business should grow in the future.

To address these concerns, family business owners should consider the following four strategies. First, have an ownership system set up that can help ease the tax bill. The structure of the family business, such as a corporation, partnership, or an LLC, can ensure that the business will be kept in the family.

Second, take concrete steps to prepare the succeeding generation for management. Ensure that there are regular family meetings where the short and long term goals of the business are discussed. A family meeting serves as a forum where the older generation can communicate the values upon which the business was built, and where protégés may express where

they see the business going and their willingness to manage. The family meeting provides an opportunity to identify which protégé can be groomed as an heir. Moreover, it can serve as a launching point for the delegation of management responsibilities. A third party objective participant in the family meeting, such as a family business attorney, can help identify an appropriate heir to groom.

Finally, write up a family business mission statement. This document will articulate the values and direction of the family business both now and for future generations. Not only does such a statement inform future managers of the goals and direction of the business, it also serves as a lasting testament for the future generations of family business owners.



Members of the Menlo Entrepreneurs and Professionals Group at Savvy Cellars Wine Bar and Bistro in Redwood City

Small Business Owners Exchange Ideas in Meetup

On January 28th, over twenty Peninsula small business owners converged at Savvy Cellars Wine Bar in Redwood City to discuss business ideas, entrepreneurship, and enjoy hors d'oeuvres. Among the guests were several family business owners, financial advisors, and business services professionals.

“The group’s purpose is to bring professionals and en-

trepreneurs together with the hope that synergistic relationships will develop,” group founder John Martin says. Group members were pleased with the outcome: “very interesting people with a lot of experiences...,” Nancy Rodas, the owner of a landscape architecture business writes. “I was pleasantly surprised,” group member J.R. Thornhill added.

Menlo Entrepreneurs and Professionals meet monthly at a location in the Menlo Park area. The group’s next meeting will be at Angelica’s Bistro in Redwood City on February 28th. Information can be found at www.johnmartinlaw.com or by contacting the Law Offices of John C. Martin.



Compassionate, Straightforward, No Surprises.

THE LAW OFFICES OF JOHN C. MARTIN

1145 Merrill Street
Menlo Park, CA 94025

Phone: 650-329-9500
Fax: 650-289-0984
E-mail: jcm@johncmartinlaw.com

The Law Offices of John C. Martin was founded in order to help individuals, families, and businesses on the San Francisco Peninsula and beyond with their Estate Planning needs. We are dedicated to compassionate, thoughtful estate planning that leaves clients loving their lawyer. First and foremost, we've tossed out the billable hour and charge only flat fees. Second, we've streamlined the follow-up process so that clients receive guaranteed regular review. Finally, we offer the option of membership in a VIP club to all estate planning clients for a monthly fee. Members receive unparalleled access to follow up meetings, review of assets, family conversations, insurance updates, discounts on future legal work, and more....

We're on the web!
<http://JohnCMartinLaw.com>



Gift now and it will grow later.

Now is the Time to Gift

This month, the 7520 rate hit an all time low of 2%. This results in unprecedented opportunities to gift using a device called the Grantor Retained Annuity Trust (GRAT). In his latest article, "[Estate Planning Strategies for Business and Property Owners](#)," Attorney John Mar-

tin discusses the usefulness of low 7520 rates in gifting. "A GRAT works particularly well during economically depressed times when asset values and interest rates are low," John writes. "During such times, it is more likely that GRAT assets will greatly exceed the sum of annuity payments, resulting in

large tax-free gifts to beneficiaries." With such low 7520 rates, coupled with depressed asset values, this can be a perfect time to gift underappreciated stocks, businesses, or real estate that mom and pop would want to give to their heirs anyway.

Learn More About Estate Planning

Upcoming Events:

- February 28, 2009— Menlo Entrepreneurs & Professionals, Angelica's Bistro in Redwood City, California, 7-9 pm
- March 11, 2009—Seminar in downtown San Francisco (fully subscribed)
- Estate Planning Seminars to be taught at Peninsula Covenant Church, date to be determined

Law Offices of John C. Martin
1145 Merrill St.
Menlo Park, CA 94025



This newsletter is not and should not be construed as the provision of legal advice or the formation of an attorney client relationship. Please do not communicate confidential information by email. Thank you.

IRS CIRCULAR 230 NOTICE: To the extent that this newsletter or any attachment concerns tax matters, it is not intended to be used and cannot be used by a taxpayer for the purpose of avoiding penalties that may be imposed by law.