

HALES, HALES & GEORGE

ATTORNEYS AT LAW

N E W S L E T T E R

Devoted to Estate and Business Planning Law and Trust Administration Since 1972

DOES YOUR LIVING TRUST STILL WORK?

Has your estate plan remained current with the changing laws?

BY WILLIAM P. GEORGE
ATTORNEY AT LAW

The following items are critical in assuring your estate plan is current with today's changing laws:

Changes in Tax Law

Major tax law revisions that occurred in 1982 have had a huge impact on your Living Trust. These new laws changed how and when federal estate taxes will be paid and now provide guarantees that your estate will remain with your blood line. If your estate plan was executed prior to 1982, please contact us at your earliest convenience so we can review your estate plan as soon as possible.

THERE'S MORE INSIDE

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Durable Powers of Attorney

Durable Powers of Attorney (DPA) for health care and legal decisions are essential elements of all estate plans. These documents name the people who will act on your behalf if you become incapacitated. Not only will properly designed DPA's save your loved ones thousands of dollars but they will also minimize the legal hassles involved in conservatorship proceedings. All DPA's that were executed before 1989 should be re-drafted and executed because of recent changes in the law.

Exhibit "A" Update

The California Supreme Court again confirmed that an Exhibit "A," referenced in a Revocable Living Trust, funds the Trust with the assets listed on the Exhibit "A."

NOTE: We have formatted floppy disks with Exhibit "A" and Letter of Intent information for your use. These disks will enable

you to update Exhibit "A" information when needed and then store the most recent copy on your computer. Of course, your Exhibit "A" is only valid when you sign and date your most current copy.

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DO YOU KNOW A BABY BOOMER?

In 1996, "baby boomers" are turning 50 at the rate of one every 7.5 seconds. This distinct group will continue to grow for the next 14 years.

ATTENTION ALL BABY BOOMERS... your estate planning should be in order.

If you have a parent or an adult child who qualifies for this growing part of the population, their estate planning issues should also be in order.

Please call us to discuss your estate planning needs. ✦

KEEPING YOUR FAMILY BUSINESS IN THE FAMILY

BY ROBERT E. HALES
ATTORNEY AT LAW

Whether you own a family farm, law practice, manufacturing company or corporation, common problems exist relating to the preservation of businesses for future generations.

You may want to consider the following regarding the inheritance of your family business:

Are your children capable of continuing the business when you die? Or, perhaps more important, do your children want to continue the business when you die?

If my son works for me and I leave him the business, could he sell it for an enormous profit one week after my death? If he does, he could cut his siblings out of the value of the family business forever. Or, did my daughter die prematurely, after inheriting the family company, and did our business go to her second husband?

If you own a business with a non-family partner, how can you buy-out your partner without increasing federal estate taxes? Perhaps of even more concern, do you want your business interest bought out from your family when you die?

Having planned over six thousand estates, many of which are for families or individuals who owned their own businesses, I have discovered what I believe to be unique solutions to unique problems. I refer to these solutions as the "No-Sell/Buy-Sell" Agreement.

It has been my experience that when a business partner dies, one of the most valuable assets the partner ever owned (the business) is subject to a "Buy-Sell" Agreement. This agreement requires the deceased partner's family to sell their interest, often prematurely, to the surviving partner.

*"Family owned farm
inherited by strangers
after parents die."*

Years later, they discover that the family business was sold by the surviving partner for a value substantially higher than the amount they received at the time of their parents' death. This "No-Sell/Buy-Sell" approach introduces unique solutions better suited to reduce estate taxes and preserve values for future generations of family owned businesses.

FOR MORE INFORMATION:

Robert E. Hales has recently published an article in "The Practical Lawyer" titled "To Buy-Sell or Not to Buy-Sell." If you are interested in reading more about this topic, please contact the offices of Hales, Hales & George and we will send you a copy of this article.

Additionally, Bob will be speaking in May of this year to the Merrill Lynch brokers about the "No-Sell/Buy-Sell" agreement during a national teleconference in New York sponsored by The American Society of Chartered Life Underwriters. ❖

CONGRATULATIONS!!!

Jan Marie Hales has been certified as a specialist in Estate Planning, Trust and Probate Law by the State Bar of California Board of Legal Specialization. Attorneys are certified through a process which includes a written examination and peer review, attendance at a prescribed number of approved educational programs and the completion of tasks in the specialty area. Certification is for a five year period during which specialists must continue to meet tasks, education and peer review requirements similar to those for certification. In summary, Jan is now a recognized estate planning and trust administration guru. Hip, Hip Hooray!! ❖



*Where there's
a will...
there's
a relative.*

AVOID FEDERAL ESTATE TAXES ON LIFE INSURANCE

BY JAN MARIE HALES
ATTORNEY AT LAW

Most people are under the impression that life insurance passes "tax free" at death. That phrase is only a half truth. Life insurance transfers "INCOME" tax free, but the IRS deems insurance to be included in the insured's estate and therefore the insurance proceeds do not pass "federal estate" tax free. Although the estate planning attorney desires insurance to be in place at the time of death, the proceeds of the insurance should never INCREASE the taxable estate and thereby the tax bill.

The solution is to maintain life insurance coverage and to structure the policy so the proceeds transfer income tax free and federal estate tax free in an Irrevocable Insurance Trust. Insurance proceeds owned by an Irrevocable Insurance Trust are excluded from federal estate tax at the death of the insured and therefore the policy amounts are netted to the family.

In exchange for allowing the proceeds to pass tax free, the IRS requires the insured to relinquish any rights in the policy. The insured is required to irrevocably assign the policy to the Irrevocable Trust and at the insured's death, the proceeds of the insurance policy are subject to the terms of the Irrevocable Trust.

A properly drafted Irrevocable Trust can provide for the proceeds to be made available to a surviving spouse for life. When the surviving spouse dies the proceeds are excluded from that spouse's estate as well. The proceeds will ultimately

pass tax free to the children or other beneficiaries.

Structuring a proper Irrevocable Trust is critical as these types of documents are complex with far reaching tax and legal complications. Furthermore, Irrevocable Trusts are highly scrutinized by the IRS to ensure all requirements are met and therefore must be carefully drafted.

Properly structured life insurance plays a vital role in estate planning. The prudent estate planning attorney aspires to reduce estate taxes for his or her clients and to insulate their loved ones from cumbersome legal procedures after death. Ideally, the main focus of estate planning is to ultimately distribute a client's estate to desired beneficiaries. All too often, these objectives are defeated when family members are forced to sell up to 55% of the estate to satisfy federal estate taxes that may still be present even with planning in place. Compounding this tragedy, is the fact that the federal estate tax is due just nine months after the date of death. The necessity to hurriedly liquidate an estate generally requires the beneficiaries to sell assets for less than fair market value. The end result is Uncle Sam takes a huge bite out of assets that have accumulated over a lifetime and beneficiaries are left with fewer assets and no cash to pay the taxes.

Not only can insurance help solve the above mentioned problems by providing instant cash at the time of death to pay taxes, but even individuals who do not have a federal estate tax concern can use life insurance to replace the family's lost income upon the death of a breadwinner.

Approximately three million people now living will have taxable estates at their deaths. Take the time to review your insurance policies to guarantee your loved ones will not have to pay estate taxes on policy proceeds. If you have any additional

questions regarding the implementation of an Irrevocable Insurance Trust, please call our offices. ✚

KEEPING CURRENT WITH CHANGING LAWS

Continued from page one...

Notaries Need Fingerprints

Beginning in 1996, Notary Publics will require your fingerprints in their notary journals when notarizing deeds. Hales, Hales & George will continue to supply you with your notary public needs. ✚

PLEASE WRITE US...

If you have a friend, relative or associate who would like to receive a copy of the HALES, HALES & GEORGE newsletter, please let us know by writing us with their name and address.

Additionally, if you have any questions you would like answered in our next HALES, HALES & GEORGE newsletter, please write us.

All correspondence can be sent to our main office:

HALES, HALES & GEORGE

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Saratoga, CA 95070

HALES, HALES & GEORGE, a family-owned law firm with offices in Saratoga and San Francisco, California, specializes in Estate and Business Planning as well as Probate and Trust Administration. Each partner of Hales, Hales & George is a member of the State Bar of California, the Santa Clara Bar Association, and the Santa Clara County Estate Planning Council. This issue of the Hales, Hales & George Newsletter was designed by Lynn Anne Heil and edited by attorneys Robert E. Hales, Jan Marie Hales and William P. George. Any questions raised by these articles can be addressed by simply writing the law firm at 19040 Cox Avenue, Suite 3, Saratoga, CA 95070 attention: HH&G Newsletter. This newsletter is intended to be a source of information for our clients and associates and should not be considered personal legal advice. Laws can change frequently and rapidly. Please consult your attorney before relying on any information contained in this publication.

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Estate Plan Up-Date Certificate

As a service to our existing clients who have received this NEWSLETTER, this certificate entitles you to a meeting with an attorney from HALES, HALES & GEORGE to review your estate plan and the impact of current tax laws for a fee of \$100 per year. This meeting will be a review of all your estate planning documents including your Exhibit "A". If any additional documents or changes to existing documents are required, an additional fee will be quoted during your scheduled appointment.

Please complete the information below and return this certificate with a check for \$100 payable to HALES, HALES & GEORGE. Upon receipt we will call you to arrange a convenient time to meet with you or please feel free to call us to schedule an appointment.

NAME: _____

ADDRESS: _____

DAYTIME PHONE: _____ HOME PHONE: _____

